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### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, D.C. 20460

OFFICE OF GENERAL COUNSEL

FFB 1 1978

#### MEMORANDUM

TO:

George R. Alexander, Jr.

Regional Administrator, Region V

FROM:

Down Burker ₩ Joan Z. Bernstein

General Counsel (A-130)

SUBJECT: Concurrence with Region V Order Affirming Preliminary Approval of Michigan Application for Primary Enforcement Responsibility Under Section 1413 of the Safe Drinking

Water Act

This is to inform you of my concurrence with your order affirming your preliminary approval of the Michigan application for primary enforcement responsibility under Section 1413 of the Safe Drinking Water Act.

Pursuant to 40 C.F.R. \$142.13, preliminary approval was published in the Federal Register on September 7, 1977, and a public hearing was held on October 7, 1977. Having reviewed the record of the hearing, I concur in your affirmation of the preliminary approval.

By this memorandum, the determination that Michigan has satisfied the requirements of primary enforcement responsibility is now finally effective. Notice of your affirmation will be published in the Federal Register. In addition, the Administrator will notify the Governor of Michigan of the decision to grant State primary enforcement responsibility under Section 1413 of the Safe Drinking Water Act.

original: Water,

cc: Regional Counsel

RECEIVEL

FEB 0 8 1978

EPA REGION 5 13 FEB 1978 FFICE OF REGIONAL

### POST OFFICE TO ADDRESSEE FROM: Water Supply Branch ORIGIN: 230 South Dearborn Street Initials of Receiving Clerk: Chicago, Illinois 60604 Value Declared, if any: Date In TO: Joan Bernstein Office of General Counsel (A-131) U. S. Environmental Protection Agency 401 M Street SW Washington, D. C. 20460

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PRESS MAIL SERVICE **Customer Receipt** 



LABOR FOR MARCH, TO

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION V

DATE:

JAN 16 1978

SUBJECT:

FEDERAL REGISTER Notice - Michigan SDWA Primacy

FROM:

Charles H. Sutfin

Director, Water Division

то: George R. Alexander, Jr. Regional Administrator

Enclosed for your review and approval, are one original and five copies of a FEDERAL REGISTER notice approving your preliminary determination that the Michigan Department of Public Health has met all of the requirements of primary enforcement responsibility for public water supervision under the Safe Drinking Water Act in Michigan.

We have reviewed the transcript of the public hearing and found no substantive adverse comments. A Summary of that hearing was forwarded to you on November 25, 1977.

The Office of Water Supply has requested that you not date the notice when you sign the original and copies. This is because of the delay of publication in the FEDERAL REGISTER due to the necessity of obtaining concurrence from the Office of General Counsel.

**Enclosures** 

### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION V

FEDERAL REGISTER Notice - Michigan SDWA Primacy

Charles H. Sutfin Director, Water Division

Thomas Yeates, Management James McDonald, Enforcement Chris Tiam, Surveillance and Analysis Thomas Harrison, Regional Counsel

Enclosed, for your concurrence, is the FEDERAL REGISTER notice for the Michigan Department of Public Health's application for primary enforcement responsibility for public water system supervision.

Michigan's administrative rules were officially promulgated on December 14, 1977, and will take effect January 11, 1978. These rules, as promulgated, are exactly the same in primacy related areas as the October 21, 1977, version which you have reviewed and approved as being adequate for Michigan to assume primacy. Copies of the rules and certificates of promulgation are attached for your information.

A summary of the public hearing transcript is also attached. We have reviewed the transcript and found no substantive comments adverse to Michigan's assumption of primacy.

When you complete your review of this material, please contact Steve Kieras at 353-2151. He will then hand-carry this information to the next person on the list so we can rapidly complete the review process and notify the State.

**Enclosures** 

5WD:Kieras:mmr:81/4/78

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JAN 17 1978

REGION V

FEDERAL REGISTER Notice - Michigan SDWA Primacy

George R. Alexander, Jr. /s/ original signed by George R. Alexander, Jr. Regional Administrator

Joan Bernstein Office of General Counsel (A 131)

Enclosed, for your concurrence, are one signed original and five signed copies of the <u>FEDERAL REGISTER</u> notice affirming my preliminary determination that the Michigan Department of Public Health has met all of the requirements for primary enforcement responsibility for public water system supervision under the Safe Drinking Water Act.

We have attached two copies each of the following documents:

- 1. Michigan's final rules, dated December 6, 1977.
- 2. A letter from the Michigan Department of Public Health dated December 16, 1977, concerning State records and reporting.
- 3. An amendment, dated January 10, 1978, to Michigan's primacy application of July 7, 1977.
- 4. Transcript of the public hearing held October 7, 1977.

These items complete Michigan's primacy application which was sent to you on July 15, 1977.

Also attached, for your and Office of Water Supply's concurrence, is a letter notifying the State of primacy approval and confirming the understanding reached between EPA and the State as to the State's implementation of the four areas of their rules which were questioned by your office.

After reviewing, please call us. I will then sign the letter and send it to the State.

**Enclosures** 

5WD: Kiewas: mmr:1/12/78

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#### ENVIRORMENTAL PROTECTION AGENCY WATER PROGRAMS

# DETERMINATION OF PRIMARY ENFORCEMENT RESPONSIBILITY STATE OF MICHIGAN

#### PUBLIC NOTICE

This public notice is issued under section 1413 of the Safe
Drinking Water Act, P.L. 93-523, December 16, 1974, and section
142.10 of the National Interim Primary Drinking Water Regulations,
published in the FEDERAL REGISTER on January 20, 1976.

A submission, dated July 7, 1977, has been received from the Director, requesting a determination that the Michigan Department of Public Health has met requirements for primary enforcement responsibility for public water systems in the State of Michigan. in accordance with the provisions of this Act.

In response, I determined on August 31,1977, that the Michigan Department of Public Health has the statutory authority and, with the adoption of the rules in a form similar to those submitted to the U.S. Environmental Protection Agency, will meet all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Michigan. Such rules have since been

adopted. Therefore, I have determined that the Michigan

Department of Public Health has met all conditions of the Safe

Drinking Water Act and subsequent regulations for the assumption

of primary enforcement responsibility for public water systems in

the State of Michigan. The State-

- (1) has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;
- (2) has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;
- (3) will keep such records and make such reports as required;
- (4) will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;
- (5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

A copy of my preliminary determination was published in the PEDERAL REGISTER on September 7, 1977. At that time I asked for public comment and scheduled a public hearing to consider this application. The hearing was held on October 7, 1977. No substantive comments adverse to my preliminary decision have been received, either during the public comment period or at the public hearing.

Therefore, I am affirming my determination that the Michigan Department of Public Health has met all conditions of the Safe

## UNITED STES ENVIRONMENTAL PROTECTION ANCY

Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Michigan.

JAN 17 1978

Dated

Isl original signed by George R. Alexander, Jr.

George R. Alexander, Jr.
Regional Administrator
Region V
U.S. Environmental Protection Agency

CONCURENCES

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JAN 16 1978

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FEDERAL REGISTER Notice - Michigan SDWA Primacy

Charles H. Sutfin Director, Water Division

George R. Alexander, Jr. Regional Administrator

Enclosed for your review and approval, are one original and five copies of a FEDERAL REGISTER notice approving your preliminary determination that the Michigan Department of Public Health has met all of the requirements of primary enforcement responsibility for public water supervision under the Safe Drinking Water Act in Michigan.

We have reviewed the transcript of the public hearing and found no substantive adverse comments. A Summary of that hearing was forwarded to you on November 25, 1977.

The Office of Water Supply has requested that you not date the notice when you sign the original and copies. This is because of the delay of publication in the FEDERAL REGISTER due to the necessity of obtaining concurrence from the Office of General Counsel.

Enclosures

5WD: Kieras:mmr:12/29/77

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CONCURENCES								
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SURNAME	*******	JAJ		-st-				********
DATE		1/16/78		1/16				
FPA Form 1320.1 (17.70)								

January 13, 1978

REGION V

Michigan's Primacy Application: Interim Lab Certification Program

Joseph F. Harrison, Chief Water Supply Branch David Payne, Chief, Quality Assurance Office Central Regional Laboratory

Attached is the amendment to Michigan's Primacy Application which your staff requested. Please note that the next to last paragraph on page 2 of the amendment states that Michigan is conducting an interim laboratory certification program which will continue until the EPA lab certification regulations are finalized. At that time, Michigan will adopt the EPA regulations as part of the State administrative rules.

Attachment 5WD:Kjeras:mmr:1/13/78

> WSB 1/13/73

1/10 Cent try Janet mach to Dave Temms REGIUN V January 10, 1978 Michigan Regulations Joseph F. Harrison, Chief Water Supply Branch Alan Levin, Director State Programs Division Attached for your review is a draft of the letter from Region V to Michigan, notifying the State of primacy approval, and clarifying the four points in your January 3, 1978, memo. Please inform us as soon as possible of any changes which you wish to make in the letter. We hope to send the final version of the letter to the Office of General Counsel on Friday, January 13, 1978, along with Michigan's Federal Register notice. After the Office of General Counsel and the Office of Water Supply have concurred, the Regional Administrator will sign the letter and send it to Dr. Reizen with a copy to Vic Kinm. You will note that item #1 addresses only the instance where the one check sample required by Michigan's rules is negative, and no further checks are necessarily required. We feel this is the only circumstance in regards to Michigan's check sampling procedures which can be constreed as being less stringent than Federal requirements. In your memo, you expressed concern that there is no time constraint imposed upon the collection of the required check sample. This does not seem to us to be a valid concern, since the language used to direct collection of a check sample in Michigan's Rule 707(1) is exactly the same as that used in Section 141.21(d) of the interim Regulations directing collection of two daily check samples. There also appears to be some question whether the investigation of Rule 707(2) will be commenced immediately following a positive check sample result. We believe that the language of Rule 707(2) is clear enough as written to indicate that the investigation shall be initiated immediately after the positive result is discovered. The problem of the investigation going on forever is, of course, another matter and is covered in point 2 of the letter. You also ask in the memo, how does the Region plan to implement Section 141.32(6) of the Interim Regulations. Michigan, as you know, adopted public notification procedures which correspond to Section 142.16 of the Implementation Regulations. Therefore, in accordance with Regional Water Supply Guidance No. 41, Region V will enforce these provisions of \$141.32(b) not covered by \$142.16 as resources permit. iemr: 11/10/78

### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: # JON 1975

SUBJECT: Michigan Regulations

FROM: Alan Levin, Director alan Jain State Programs Division

TO: Joseph Harrison Region V

We have completed our review of the submitted Michigan drinking water regulations and have found them to be adequate, contingent upon the written clarification of four specific items. While we can agree with the State's stated intention and proposed action on these items, we feel that it is important and necessary to obtain written clarification. We therefore request that the Region's letter to the State notifying it of primacy approval includes confirmation of the understanding reached between EPA and the State as to the State's intended implementation of these four items. We also request your written confirmation that the Region will observe carefully Michigan's program to ensure that the State's intentions are carried out in accordance with the Federal requirements.

The first item is the section (R 325.10707, Rule 707) pertaining to the Department's investigation of bacti MCL violations. It is our understanding that public notification will proceed within three months of the detected violation as required by R 325.10405, Rule 405 of the Michigan regulations and Section 142.16 of the Implementation Regulations regardless of the completion/non-completion of the investigation. How does the Region intend to implement Section 141.32(b) of the Interim Primary Drinking Water Regulations regarding immediate media notice when there is an MCL violation?

The second item requiring clarification is the provision regarding the collection of only one check sample. It is also noted that there is no time constraint imposed upon the collection of this check sample. It is understood that the State considers the one check sample supplemented by the investigation to be equivalent to the protection provided under Section 141.21(d). It is therefore implied

that the investigation will be commenced immediately after a positive result in order to provide as prompt feedback as would be provided by the check sampling under Section 141.21(d). As you know, the primary purpose of the immediate check sampling procedure is to provide a data base for the decision regarding further action (e.g., boil water order).

The third item relates to the issuance of variances under R 325.10304, Rule 304 of the Michigan regulations. Because the State's definition of "treatment technique" under R 325.10109, Rule 109(c) is not clearly limited to a treatment technique requirement of the regulations, the variance provision could be interpreted so as to allow the granting of a variance from an MCL based on the conditions in Rule 304(b) which are only applicable to the granting of a variance from a treatment technique requirement. It should be clearly understood that variances will be issued by the State in a manner no less stringent than the Federal requirements in Section 1415 of the SDWA despite the ambiguous language of the Michigan regulations.

Finally, Michigan's regulation R 325.10705, Rule 705(2), allows the State to vary the frequency of bacti sampling "based on a sanitary survey." The State's definition of "Sanitary Survey" under R 325.10108, Rule 108(a), however, does not specifically include an assessment of the history of no coliform bacterial contamination. Rule 705(2) also does not indicate that written permission from the State is required for such modified sampling. Therefore, it should be confirmed that Rule 705 of the State regulations will be implemented in accordance with the requirements of Section 141.21(b) of the Federal regulations.

With the adequate clarification of these four items our review of the submitted State's regulations will be complete. We think that it would be advisable to carefully review Michigan's implementation of these four procedures to insure consistency with their stated intent. While we do not doubt the State's intention, a literal interpretation of the State's regulations may be construed by some as a means of avoiding the public notification provisions of the Safe Drinking Water Act. Your review should focus on the consistency between actual execution and stated intent.

January 3, 1978

Michigan's Application for Primacy: Final Rules

Joseph F. Harrison, Chief Water Supply Branch

Lorraine Chang Office of General Counsel (A-131)

Enclosed for your review are two copies of Michigan's final rules which were officially promulgated December 14, 1977, and will take effect January 11, 1978. These rules incorporated our suggested changes to the proposed rules which Michigan submitted with their primacy application of July 7, 1977, and are substantially the same as the October 21 draft.

I am also attaching a copy of a memo which details some of the rationale behind our determination that Michigan's bacteriological regulation is as stringent as the comparable Federal regulation. I hope it will alleviate any doubts about the acceptability of Michigan's primacy application.

We plan to have the final Federal Register package signed by the Regional Administrator and sent to your office in about a week. Included with this package, for your concurrence, will be a letter for Mr. Alexander's signature informing Michigan that they have been granted primacy. In that letter, we will affirm our understanding of how the State plans to implement their program with regards to check sampling, public notification, variances, and reduction of sampling frequency.

I hope this now paves the way for a swift review of Michigan's application, and facilitates its approval.

Attachmen<del>ts</del>

5WD: Kieras:mmr:1/3/78

JA 1/3/28

WS /S

SEP 1 9 1977

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Review of Michigan's SDWA Primacy Application

Charles H. Sutfin Director, Water Division

George R. Alexander, Jr. Regional Administrator

The Michigan Department of Public Health (MDPH) application concerning public water system primacy has been reviewed by Region V and by the Office of Water Supply (OWS) and the Office of General Counsel (OGC) in Washington. Region V has determined that, if the MDPH rules are enacted in a form similar to those submitted to EPA, Michigan will meet all of the requirements for primacy. OGC has not yet concurred in the decision, because Tom Larsen of OGC felt it would be inappropriate to do so based on draft rules. OGC and OWS, however, have submitted comments about the MDPH application. No written comments have been received from OGC, but verbal comments have been given to OWS and to Robert Luss in Region V's Office of Regional Counsel based on the submittals we have given them (Attachments C are transmittal memos). All comments from OGC or OWS will be incorporated in the MDPH rules or have been resolved with OWS.

John Vogt, Chief, Bureau of Environmental and Occupational Health, MDPH, is concerned that EPA will require changes in the MDPH rules after they are enacted. (The MDPH has talked with Texas where this did occur.) John Vogt was worried that the Federal Register notice (Attachment A) meant that OGC had not yet reviewed the MDPH rules. The FR notice is meant to say that OGC officially will review the application when the final FR notice, signed by you, is sent to them for concurrence.

A draft copy of testimony before the MDPH rules hearing was submitted to OWS and OGC for comments, with the comment that EPA will be committed to determining that Michigan meets the primacy requirement if the MDPH rules are enacted in accordance with the EPA comments (Attachment B). OWS phoned in minor, not substantive, comments which were incorporated in the testimony. Tom Larsen (OGC), through Robert Luss, phoned in the comment that we include the three rules changes that were included in the testimony. Both OWS and OGC have stated these three changes are the only ones that are required for primacy.

Attachments 5WD:Manlev:mmr:9/19/77

CONCURRENCES							
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Mr. CHAIRMAN, LADIES AND GENTLEMEN, MY NAME IS JOSEPH F. HARRISON. AM CHIEF OF THE REGION V WATER SUPPLY BRANCH FOR U. S. EPA, AND I AM MAKING THIS STATEMENT IN BEHALF OF THE U. S. ENVIRONMENTAL PROTECTION important connection these state rules being considered today and land mark public health legislation at the Federal level - that is the THE PURPOSE OF THE SAFE DRINKING WATER ACT, SIGNED INTO LAW ON Safe Drink ) Safe Drinking Water Act DECEMBER 15, 1971. IS TO ENSURE THAT WATER SUPPLY SYSTEMS SERVING THE PUBLIC MEET MINIMUM NATIONAL STANDARDS FOR PROTECTION OF THE PUBLIC HEALTH, THIS ACT AUTHORIZES THE U. S. ENVIRONMENTAL PROTECTION AGENCY TO ESTABLISH STANDARDS FOR PROTECTION FROM ALL HARMFUL CONTAMINANTS IN DRINKING WATER, AND IT INVITES STATES TO ASSUME THE PRIMARY ROLE OF PUBLIC WATER SYSTEM SUPERVISION AND OF ENSURING COMPLIANCE WITH THESE STANDARDS, THE U. S. EPA ISSUED NATIONAL INTERIM PRIMARY DRINK-ING WATER REGULATIONS ON DECEMBER 24, 1975, AND JULY 9, 1976. THE SUBJECT OF HEARING TODAY CONCERNS THE ADOPTION OF RULES THAT ARE NECESSARY FOR THE STATE OF MICHIGAN TO ASSUME THE PRIMARY ROLE OF PUBLIC WATER SYSTEM SUPERVISION, UNDER THE SAFE DRINKING WATER ACT. IN MICHIGARY

THE REGIONAL ADMINISTRATOR OF REGION V OF THE U. S. EPA HAS MADE A PRELIMINARY DETERMINATION, BASED ON THESE DRAFT RULES, THAT THE MICHIGAN DEPARTMENT OF PUBLIC HEALTH WILL MEET ALL OF THE REQUIREMENTS FOR SOME PRIMARY ENFORCEMENT RESPONSIBILITY. THERE WERE SEVERAL AREAS OF CONneganding Michigan haves that I will briefly describe for the CERNAMHICH WE ASKED THE DEPARTMENT OF PUBLIC HEALTH TO CLARIFY.

Three changes in the Draft Rules have been suggested. One change adds

A STATEMENT TO THE SECTION ABOUT ALTERNATIVE ANALYTICAL PROCEDURES used

for testing contaminants in drinking water

IN ORDER TO SAY THAT THE DEPARTMENT WILL RECEIVE U. S. EPA APPROVAL

FOR ANY ALTERNATIVE TESTING PROCEDURE BEFORE ALLOWING ITS USE IN

MICHIGAN. National regulations require that analytical techniques

be approved as valid and reliable by the U.S. EPA

before being used to show compliance with the

health regulations.

ANOTHER RULE C JGE ADDS THE STATEMENT THAT PUBLIC NOTICES MAY NOT BE UNDULY TECHNICAL OR USE UNDULY SMALL PRINT AND THAT THEY MUST BE CONSPICUOUS.

THE THIRD CHANGE ADDS THE STATEMENT: "EXEMPTIONS SHALL NOT BE ISSUED OR REISSUED IN ANY MANNER INCONSISTENT WITH THE FEDERAL ACT" TO THE EXEMPTION RULES. THIS STATEMENT CLARIFIES, IN THE RULES, THAT EXEMPTION SCHEDULES ARE NOT ALLOWED TO EXTEND BEYOND THE DEADLINES IMPOSED BY THE SAFE DRINKING WATER ACT. WE ALSO SUGGEST THAT THE DEPARTMENT REQUIRE SUPPLIERS OF WATER WHO REQUEST A VARIANCE OR AN EXEMPTION TO DEMONSTRATE THAT THE GRANTING OF THE VARIANCE OR THE EXEMPTION WILL NOT RESULT IN AN UNREASONABLE RISK TO THE HEALTH OF PEOPLE USING THE PUBLIC WATER SUPPLY. THIS CHANGE WILL REQUIRE THE SUPPLIER OF WATER TO PROVIDE EVIDENCE INSTEAD OF REQUIRING THE DEPARTMENT TO FAME THE BURDEN PROVIDE THAT THE GRANTING OF THE VARIANCE OR THE EXEMPTION IS UNREASONABLE.

THE DEPARTMENT'S REGULATIONS CONCERNING BACTERIOLOGICAL CHECK SAMPLES ARE CONSIDERED EQUIVALENT, ALTHOUGH THEY ARE NOT EXACTLY THE SAME AS THOSE IN THE NATIONAL INTERIM PRIMARY DRINKING WATER REGULATIONS. ONLY ONE CHECK SAMPLE, AFTER THE BACTERIOLOGICAL MAXIMUM CONTAMINANT LEVEL (MCL)

But Michigan follow- up to the first Michigan follows and the first Michigan

PART 22 OF THE DRAFT RULES HAS BEEN RESERVED FOR LABORATORY CERTIFICATION RULES. THE DEPARTMENT HAS STATED THAT WHEN U. S. EPA LABORATORY CERTIFICATION GUIDANCE BECOMES AVAILABLE FURTHER EFFORTS WILL BE MADE TO DEVELOP A COMPREHENSIVE STATE LABORATORY CERTIFICATION PROGRAM. AT THAT TIME THE U. S. EPA WILL REVIEW THESE RULES TO DETERMINE WHETHER THEY COMPLY WITH THE U. S. EPA REQUIREMENTS.

The public notification requirements have been drafted to educate the consumer and the general public about the extent to which the public water system is complying with the State rules and the Safe Drinking Water Act. These rules comply with the requirements, and the intent, of the U. S. EPA regulations to fully inform the public in order to develop a public awareness of the problems facing public water systems, to encourage a willingness to support greater expenditures at all levels of government to assist in solving these problems, and to advise the public of potential or actual health hazards. The State also requires immediate notification when an imminent hazard to the public exists.

ALL DRAFT RULES, THAT PERTAIN TO STATE REQUIREMENTS FOR PRIMARY ENFORCEMENT RESPONSIBILITY UNDER THE SAFE DRINKING WATER ACT, HAVE BEEN REVIEWED

BY THE U. S. EPA AND, WITH THESE RECOMMENDED CHANGES, HAVE BEEN DETERMINED

TO BE AS STRINGENT AS REQUIRED FOR PRIMARY. Safe

Drinking Water Act Primary Enforcement Responsibility.

THANK YOU.

the signature of a responsible official of the organization or other entity.

A complete copy of the Department of Human Services' application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in Maine:

State of Maine, Department of Human Services, Division of Health Engineering, Room 259, Health and Welfare Building, 221 State St., Augusta, Maine 04883.

Dated: August 30, 1977.

WILLIAM R. Adams, Regional Administrator, Region I. [FR Doc.77-26022 Filed 9-6-77;8:45 am]

### MICHIGAN DRINKING WATER

#### Determination of Primary Enforcement Responsibility

This public notice is issued under section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and section 142.10 of the National Interim Primary Drinking Water Regulations, published in the Federal Register on January 20, 1976.

A submission, dated July 7, 1977, has been received from the Director, requesting a determination that the Michigan Department of Public Health has met requirements for primary enforcement responsibility for public water systems in the State of Michigan, in accordance with the provisions of this Act.

In response, I have determined that the Michigan Department of Public Health has the statutory authority and, with the adoption of the rules in a form similar to those submitted to the U.S. Environmental Protection Agency, will meet all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Michigan. The State—

(1) Will adopt drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Will adopt and implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) Will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations,

(5) Will adopt and implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Bureau of Environmental and Occupational Health, Michigan Department of Public Health, 3500 North Logan St., Lansing, Mich. 48914

Michigan Department of Public Health, 305 Ludington St., Escanaba, Mich. 49829.

Water Supply Branch, Environmental Protection Agency, Region V, 230 South Dearborn St., Chicago, Ili. 60604.

Any interested person may comment upon the State submission by writing to the U.S. EPA, Region V office. Written comments must be submitted on or before October 5, 1977.

I have scheduled a public hearing to consider this application and to enable all interested parties to present their views on the State's submission. The hearing will begin at 11 a.m. on October 7, 1977, in the Manty Conference Room, Michigan Department of Public Health in Lansing, Mich.

Oral statements will be heard and considered, but, for accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material, so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the hearing officer and other interested persons.

The hearing officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard or if it is not relevant to the decision to approve or require revision to the State

program as submitted.

Further information about the public hearing may be obtained by writing the Water Supply Branch of the U.S. EPA, Region V. or by calling Joseph Harrison at 312-353-2151 or by writing the Bureau of Environmental and Occupational Health, Michigan Department of Public Health or by calling William Kelley at 517-373-1376.

No final decision will be made until the rules are final. If the final rules are in a form similar to the proposed rules, I will review the record and issue an order affirming or rescinding the determination. If the determination is affirmed, it shall become effective as of the date of this notice. If the final rules are in a form different from those proposed, I will announce a public comment period of thirty days. It should also be noted that the Offi e of General Counsel has not yet approved my initial determination and will review the submittal after the rules are fully promulgated.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated August 31, 1977.

George R. Alexander, Jr., Regional Administrator, Region V. Environmental Protection Agency. [FR Doc 77-26061 Filed 9-6-77;8:45 am]

[FRL 786-5]

### OCEAN DUMPING

Availability of Implementation Manual, "Ecological Evaluation of Proposed Discharge of Dredged Material Into Ocean Waters"

In accordance with §§ 227.6te) and 227.27(b) of the Environmental Protec-

tion Agency's (EPA) Criteria for the Evaluation of Permit Applications for Ocean Dumping of Materials (40 CFR Chapter I, Subchapter H, Part 227, 42 FR 2462, 2466-2468, 2476-2482, January 11, 1977), notice is hereby given of the availability of a manual setting forth the procedures for conducting bioassays on the liquid, suspended particulate, and solid phases of dredged material to determine whether such material is acceptable for ocean disposal under §§ 227.5(c) and 227.13(c) of the Criteria. An additional manual revising standard methods for bioassay procedures for non-dredged materials is under development and will be published in the near future; notice of availability of this manual will be published in the FEDERAL REGISTER.

As research leading to the development of this revised manual progresses, certain procedures in the dredged material manual may be found applicable to nondredged wastes. In such cases, appropriate procedures in the dredged material manual may be used, in the discretion of EPA Regional Administrators, as the basis for providing interim guidance on acceptable bioassay procedures for suspended particulate and solid phases of other materials to determine whether such materials are acceptable for ocean dumping under § 227.6(c) of the Criteria.

The oredged material bioassay manual is the product of a multi-disciplinary effort by both EPA and the Corps of Engineers to develop sound, routinely implementable procedures for determining whether dredged material complies with the technical requirements of the Criteria. Among other things, the manual discusses the requirements of the Criteria and provides detailed guidance on sediment and water sample collection. preparation and preservation; chemical analysis of the liquid phase; bioassays of liquid, suspended particulate and solid phases; estimation of bioaccumulation potential; and estimation of initial mixing. Both EPA and the Corps anticipate that the manual will be periodically revised to reflect technical and scientific advances in the state of the art.

The interim criteria of § 227.6(e) shall become inapplicable and the biological criteria of § 227.6(e) shall become mandatory for the evaluation of all permit applications for the ocean disposal of dredged material received after the date of publication of this notice.

Copies of the implementation manual are available from Chief, Marine Protection Branch (WH-548), Environmental Protection Agency, Washington, D.C. 20460; or from the U.S. Army Engineer Waterways Experiment Station, Post Office Box 631, Vicksburg, MS 39180, Attention: D. P. Booth.

Both EPA and the Corps invite continuing public comment on the manual including, but not limited to, the scope of the manual and proposed revisions. Comments should be sent to the Chief, Marine Protection Branch, and/or the U.S. Army Engineer Waterways Experi-

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Region V

DATE:

SUBJECT:

Draft EPA Testimony for Michigan Rules Hearing

FROM Charles H. Sutfin
Director, Water Division

TO:

See below

Joseph F. Harrison has been requested by the Michigan Department of Public Health to present a statement for EPA at one of their public hearings about Michigan's draft rules. The Water Supply Branch has prepared the attached draft testimony for your comments, before writing the final statement.

The Water Supply Branch needs to receive your comments by COB, September 9, 1977, in order to incorporate them in the statement, If no comments are received, we must assume that this statement is acceptable and that it accurately reflects EPA's evaluation of the MDPH's application for a primacy determination. It is important that this testimony be correct because we will have a commitment to determine that the Michigan rules meet the requirements for primacy if the final promulgation is in accord with these comments.

Because of the short amount of time, please call the Water Supply Branch, FTS 353-2151, with your comments and then follow with a written copy.

Copies to:
Victor Kimm, OWS
Ranvir Singh, OWS
Thomas Larsen, OGC
Donald Wallgren, S & A
David Payne, S & A
Dale Bryson, Enforcement
Thomas Yeates, Management
Joel Brandon, Management
Joel Margolis, Management
Robert Luss, Regional Counsel

#### Attachment

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No WSB

MR. CHAIRMAN, LADIES AND GENTLEMEN, MY NAME IS JOSEPH F. HARRISON. I AM CHIEF OF THE REGION V WATER SUPPLY BRANCH FOR U.S. EPA, AND I AM MAKING THIS STATEMENT IN BEHALF OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY.

The purpose of the Safe Drinking Water Act, signed into law on December 16, 1974, is to ensure that water supply systems serving the public meet minimum national standards for protection of the public health. This bill authorizes the U. S. Environmental Protection Agency to establish standards for protection from all harmful contaminants in drinking water, and it invites States to assume the primary role of public water system supervision and of ensuring compliance with these standards. The U.S. EPA issued National Interim Primary Drinking Water Regulations on December 24, 1975, and July 9, 1976. The subject of the hearing today concerns the adoption of rules that are necessary for the State of Michigan to assume the primary role of public water system supervision under the Safe Drinking Water Act in Michigan.

THE REGIONAL ADMINISTRATOR OF REGION V OF THE U.S. EPA HAS MADE A PRELIMINARY DETERMINATION, BASED ON THESE DRAFT RULES, THAT THE MICHIGAN DEPARTMENT OF PUBLIC HEALTH WILL MEET ALL OF THE REQUIREMENTS FOR PRIMARY ENFORCEMENT RESPONSIBILITY. THERE WERE SEVERAL AREAS OF CONCERN WHICH WE ASKED THE DEPARTMENT OF PUBLIC HEALTH TO CLARIFY.

Three changes in the draft rules have been suggested.

One change adds a statement to the section about alternate analytical procedures in order to say that the Department will receive U.S. EPA approval for any alternate testing procedure before allowing its use in Michigan.

Another rule change adds the statement that public notices may not be unduly technical or use unduly small print and that they must be conspicuous.

THE THIRD CHANGE ADDS THE STATEMENT: "EXEMPTIONS SHALL NOT BE ISSUED OR REISSUED IN ANY MANNER INCONSISTENT WITH THE FEDERAL ACT" TO THE EXEMPTION RULES. THIS STATEMENT CLARIFIES, IN THE RULES, THAT EXEMPTION SCHEDULES ARE NOT ALLOWED TO EXTEND BEYOND THE DEADLINES IMPOSED BY THE U.S. EPA.

THE DEPARTMENTS'S REGULATIONS CONCERNING BACTERIOLOGICAL CHECK SAMPLES ARE CONSIDERED EQUIVALENT, ALTHOUGH THEY ARE NOT EXACTLY THE SAME AS THOSE IN THE NATIONAL INTERIM PRIMARY DRINKING WATER REGULATIONS. ONLY ONE CHECK SAMPLE, AFTER THE BACTERIOLOGICAL MAXIMUM CONTAMINANT LEVEL (MCL) IS EXCEEDED, IS REQUIRED. HOWEVER, THE STATE'S BACTERIOLOGICAL MCL IS MORE STRINGENT THAT THE U.S. EPA MCL, AND THE STATE DOES REQUIRE THAT AN INVESTIGATION BE CONDUCTED

IF THE CHECK SAMPLE SHOWS THE PRESENCE OF COLIFORM ORGANISMS.

THIS INVESTIGATION INCLUDES THE ANALYSIS OF A CHECK SAMPLE

FROM THE SAME SAMPLING POINT AND FROM OTHER SAMPLING

POINTS, IN ORDER TO DEFINE THE EXTENT OF THE PROBLEM.

THEREFORE, THIS RULE IS CONSIDERED AS STRINGENT AS THE

U.S. EPA REGULATIONS.

PART 22 OF THE DRAFT RULES HAS BEEN RESERVED FOR LABORATORY CERTIFICATION RULES. THE DEPARTMENT HAS STATED THAT WHEN U.S. EPA LABORATORY CERTIFICATION GUIDANCE BECOMES AVAILABLE FURTHER EFFORTS WILL BE MADE TO DEVELOP A COMPREHENSIVE STATE LABORATORY CERTIFICATION PROGRAM. AT THAT TIME THE U.S. EPA WILL REVIEW THESE RULES TO DETERMINE THAT THEY COMPLY WITH THE U.S. EPA REQUIREMENTS.

The public notification requirements have been drafted to educate the consumer and the general public about the extent to which the public water system is complying with the State rules and the Safe Drinking Water Act. These rules comply with the requirements, and the intent, of the U.S. EPA regulations to fully inform the public in order to develop a public awareness of the problems facing public water systems, to encourage a willingness to support greater expenditures at all levels of government to assist in solving these problems, and to advise the public of potential or actual health hazards. The State also requires immediate

NOTIFICATION WHEN AN IMMENENT HAZARD TO THE PUBLIC EXISTS

ALL DRAFT RULES, THAT PERTAIN TO STATE REQUIREMENTS FOR PRIMARY ENFORCEMENT RESPONSIBILITY UNDER THE SAFE DRINKING WATER ACT, HAVE BEEN REVIEWED BY THE U.S. EPA AND, WITH THESE RECOMMENDED CHANGES, HAVE BEEN DETERMINED TO BE AS STRINGENT AS REQUIRED FOR PRIMACY. THEREFORE, THE U.S. ENVIRONMENTAL PROTECTION AGENCY RECOMMENDS THAT THESE RULES BE ENACTED WITH THESE THREE CHANGES.

THANK YOU.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE:

AUG 30 1977

SUBJECT:

Preliminary Approval Notice for Michigan's Application

for SDWA Primacy

FROM:

Charles H. Sutfin

Director, Water Division

TQ:

George R. Alexander, Jr. Regional Administrator

Based on discussions with the Office of General Counsel and the Regional Counsel, we are submitting for your review and approval, a new preliminary approval notice for the Michigan Department of Public Health's application for primary enforcement responsibility for public water system supervision.

This new notice clarifies that the preliminary determination is based on draft rules. It also states that OGC has not yet concurred in the initial determination, but will review the submittal after the rules are fully promulgated.

**Enclosures** 

sent to divisio , p. 91 9-1-71

#### REGION V

Preliminary Approval Notice for Michigan's Application for SDWA Primacy

George R. Alexander, Jr. Regional Administrator

Thomas Larsen
Office of General Counsel (A-131)

Enclosed are one signed original and three signed copies of the notice to be published in the <u>Federal Register</u> about my initial determination about the Michigan Department of Public Health's application for primary enforcement responsibility for public water system supervision.

I understand that this new notice is acceptable to you and will be able to be published.

Enclosures 5WD: Manley: mar: 8/30/77 Num

WS15 / 77

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# ENVIRONMENTAL PROTECTION AGENCY WATER PROGRAMS

# DETERMINATION OF PRIMARY ENFORCEMENT RESPONSIBILITY STATE OF MICHIGAN

#### PUBLIC NOTICE

This public notice is issued under section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and section 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

A submission, dated July 7, 1977, has been received from the Director, requesting a determination that the Michigan Department of Public Health has met requirements for primary enforcement responsibility for public water systems in the State of Michigan, in accordance with the provisions of this Act.

In response, I have determined that the Michigan Department of Public Health has the statutory authority and, with the adoption of the rules in a form similar to those submitted to the U.S. Environmental Protection Agency, will meet all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Michigan. The State--

 will adopt drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

- (2) will adopt and implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;
- (3) will keep such records and make such reports as required;
- (4) will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;
- (5) will adopt and implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Bureau of Environmental and Occupational Health Michigan Department of Public Health 3500 North Logan Street Lansing, Michigan 48914

Michigan Department of Public Health 305 Ludington Street Escanaba, Michigan 49829

Water Supply Branch Environmental Protection Agency, Region V 230 South Dearborn Street Chicago, Illinois 60604

Any interested person may comment upon the State submission by writing to the U. S. EPA, Region V office. Written comments must be submitted on or before October 5, 1977.

I have scheduled a public hearing to consider this application and to enable all interested parties to present their views on the State's submission. The hearing will begin at ll a.m. on October 7, 1977, in the Manty Conference Room, Michigan Department of Public Health in Lansing, Michigan.

Oral statements will be heard and considered, but, for accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material, so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the hearing officer and other interested persons.

The hearing officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard or if it is not relevant to the decision to approve or require revision to the State program as submitted.

Further information about the public hearing may be obtained by writing the Water Supply Branch of the U. S. EPA, Region V, or by calling Joseph Harrison at (312)353-2151 or by writing the Bureau of Environmental and Occupational Health, Michigan Department of Public Health or by calling William Kelley at (517)373-1376.

No final decision will be made until the rules are final. If the final rules are in a form similar to the proposed rules, I will review the record and issue an order affirming or rescinding the determination. If the determination is affirmed, it shall become effective as of the date of this notice. If the

final rules are in a form different from those proposed, I will announce a public comment period of thirty days. It should also be noted that the Office of General Counsel has not yet approved my initial determination and will review the submittal after the rules are fully promulgated.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Da ted AUG 3 1 1977

George R. Alexander, Jr. Regional Administrator

Region V

Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROVECTION AGENCY

DATE:

AUG 19 1977

REGION V

SUBJECT:

Michigan SDWA Draft Rules

FROM:

Director, Water

TO:

See Below

We have received and are transmitting to you the attached latest draft of the Michigan Department of Public Health (MDPH) rules.

We have also received the attached memo from the Office of Water Supply about discrepancies in the Michigan application for primacy. Several of the comments are now resolved in the latest draft of the rules and the Water Supply Branch has prepared a response for the other comments.

Copies to:

Thomas Larsen, OGC (2 copies) Donald Wallgren, S & A David Payne, S & A Dale Bryson, Enforcement Thomas Yeates, Management Joel Brandon, Management Joel Margolis, Management Robert Luss, Regional Counsel

**Enclosures** 

#### INFORMATION PERTAINING TO OWS COMMENTS

- The rules are just proposed (State public hearings will be held in mid-September about them), but we are progressing with the review process. An EPA hearing, about the application, has been scheduled for October 7, 1977.
- 2. The draft rules do allow an exemption schedule to last up to five years. We have asked the MDPH to explain, in writing, that they plan to limit the exemption schedules for NIPDWR contaminants to January 1978.
- 3,4, and The public notification requirements have been changed in the latest draft of the regulations. The MDPH have made their rules coincide with the Implementation Regulations and not 40 CFR 141.32.
  - (i) A sampling frequency and beginning date have been specified for non-community systems.
  - (ii) Although the check sampling requirements are not exact, they are no less stringent than the NIPDWR. The MDPH bacteriological MCL is more stringent than the NIPDWR. Also, after a positive check sample, an investigation is required to determine the cause. This investigation should provide more opportunity to protect the public health, by locating the cause of the contamination, than just collecting check samples from the same sampling point. The objective of the investigation is to locate the problem (and then subsequently correct it so the public health is protected) and not to avoid additional monitoring by check sampling.
  - (iv) The MDPH believes that they should control the determination that a sample is unreliable and not the director of a laboratory, especially since many private "laboratories" are owned by the water utility. It should also be noted that the word "department" includes the State laboratories, so the determination of unreliable samples is not done solely by water supply program personnel.

AUG 10 1977

DATE:

SUBJECT: Michigan's Application for Primacy

Alan Levin, Director
State Programs Division (WH-550)

Joseph Harrison, Chief Water Supply Branch-Region V

This confirms the August 2, 1977, telephone conversations of Ranvir Singh with Ms. Nancy Manley of your staff regarding the adequacy of Michigan's application for primacy. Our review revealed the following discrepancies in the contents of this application:

- 1. We notice that a large number of rules included in the application package are proposed only and have not been formally adopted.
- 2. In Part 5, Page 7, item (4) the proposed Rule States "An exemption granted by ....... term not to exceed five years". This time limit differs from what is provided for in Section 1416 (a) (2) (A) (i) of PL 93-523 and must therefore be corrected accordingly.
- 3. Part 6 dealing with Public Notification does not specify how soon the public notification will begin after various violations have occurred.
- 4. On Page 2917 of the Federal Register, Volume 41, No. 13-Tuesday, January 20, 1976 (National Interim Primary Drinking Water Regulations Implementation) it is stated that State notification requirements, unlike State primary drinking water regulations, are not required to be at least as stringent as their Federal counterpart. We however, feel compelled to point out that the State public notification requirements in Part 20 be substantially the same as the Federal requirements listed in 40 CFR 141.32 which are applicable to all public water systems. This is necessary to avoid a split in enforcement responsibilities.

1 5 AUG 1977

Following comments are pertinent to Part 20:

- (i) Page 3, bacteriological monitoring requirements; Type II public water systems-No frequency of sampling and the time period to begin sampling is specified. This, therefore, does not meet the requirements of 40 CFR Section 141.21 (c).
- (ii) Page 4, continuation of item (1) must require taking of at least two consecutive daily check samples when an Maximum Contaminant Level 12 for our d (MCL) for microbiological contaminant is exceeded as required in 40CFR Section 141.21.
- Page 4, item (2) must require public notification of the presence of coliform organisms as listed - No. must require in 40 CFR Section 141.32 and not wait until the problem in the violation of best org. completion of an investigation. Investigation is needed to determine uistation - i'en not analytical error

1000

On Page 5, item (6) the determination of unreliability Department of of analysis results must be made by the Director public Health of the laboratory, whether State or private, rather than by the Department of Public Health. The language, therefore, should be changed accordingly. to speak for the matter if the laboration.

We suggest that the above comments be taken into consideration now and necessary amendments made in the proposed rules prior to their adoption. UNITED STATES ENVIRONMENTAL PROTECTION AG CY

DATE:

AUG 1 7 1977

SUBJECT: Proposed Approval Notice for Michigan's Application for SDWA Primacy

FROM:

Charles H. Sutfin
Director, Water Divisio

ΥO:

George R. Alexander, Jr. Regional Administrator

Enclosed, for your review and approval, are one original and three copies of a notice to be published in the Federal Register, proposing approval of the Michigan Department of Public Health's application for primary enforcement responsibility for public water system supervision. Also included in the notice is the announcement about the public hearing concerning this application.

The Office of Regional Counsel has determined that we can conduct the public hearing based on the draft rules. Therefore, we can provide notice of the 30-day public comment period and the public hearing, without waiting for the Michigan rules to be enacted. This will allow for a timely review of the Michigan application. However, if the Michigan rules are not enacted at the time of the preliminary review of the public comments, we will delay the final determination until the rules are enacted.

The Office of Regional Counsel and the Enforcement, Management, and Surveillance and Analysis Divisions have concurred with this notice. Copies of their concurrences are included in the two sets of background material.

The Office of Water Supply has requested that you not date the notice when you sign the original and copies. This is because of the delay of publication in the Federal Register due to the necessity of obtaining concurrence from the Office of General Counsel.

**Enclosures** 

Proposed Approval Notice for Michigan's Application for SDWA Primacy

Charles H. Sutfin Director, Water Division

George R. Alexander, Jr. Regional Administrator

Enclosed, for your review and approval, are one original and three copies of a notice to be published in the Federal Register, proposing approval of the Michigan Department of Public Health's application for primary enforcement responsibility for public water system supervision. Also included in the notice is the announcement about the public hearing concerning this application.

The Office of Regional Counsel has determined that we can conduct the public hearing based on the draft rules. Therefore, we can provide notice of the 30-day public comment period and the public hearing, without waiting for the Michigan rules to be enacted. This will allow for a timely review of the Michigan application. However, if the Michigan rules are not enacted at the time of the preliminary review of the public comments, we will delay the final determination until the rules are enacted.

The Office of Regional Counsel and the Enforcement, Management, and Surveillance and Analysis Divisions have concurred with this notice. Copies of their concurrences are included in the two sets of background material.

The Office of Water Supply has requested that you not date the notice when you sign the original and copies. This is because of the delay of publication in the Federal Register due to the necessity of obtaining concurrence from the Office of General Counsel.

Enclosures

5WD:Manley:mmr:8/4/77

MLL

8/10/77 mg//

Sug-8/10/17 Proposed Approval Notice for Michigan's Application for SDNA Primacy

George R. Alexander, Jr. Regional Administrator

Tom Larsen (A-131) Office of General Counsel

Enclosed, for your concurrence, are one signed original and three signed copies of the notice to be published in the Federal Register proposing approval of the Michigan Department of Public Health's application for primary enforcement responsibility for public water system supervision. We have also included two copies of the application and the reasons for our determination.

I have determined that a public hearing should be held about this request. Therefore, after reviewing the information received during the public comment period and at the public hearing, and after the Michigan rules are enacted, I will make my final determination about the Michigan request. At that time I will again forward my determination to you for concurrence before it is published.

Enclosures 5WD:Manley:mmr:8/4/77

NUM

IS original signed by George R. Alexander, Jr.

WSB, 9/16/m

2 Sut 8/18/17

# ENVIRONMENTAL PROTECTION AGENCY WATER PROGRAMS

# DETERMINATION OF PRIMARY ENFORCEMENT RESPONSIBILITY STATE OF MICHIGAN

#### PUBLIC NOTICE

This public notice is issued under section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and section 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

A submission, dated July 7, 1977, has been received from the Director, requesting a determination that the Michigan Department of Public Health has met requirements for primary enforcement responsibility for public water systems in the State of Michigan, in accordance with the provisions of this Act.

In response, I have determined that the Michigan Department of Public Health will meet all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Michigan. The State--

- (1) will adopt drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;
- (2) will adopt and implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

- (3) will keep such records and make such reports as required;
- (4) will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;
- (5) will adopt and implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m.,

Monday through Friday, at the following offices:

Bureau of Environmental and Occupational Health Michigan Department of Public Health 3500 North Logan Street Lansing, Michigan 48914

Michigan Department of Public Health 305 Ludington Street Escanaba, Michigan 49829

Water Supply Branch Environmental Protection Agency, Region V 230 South Dearborn Street Chicago, Illinois 60604

Any interested person may comment upon the State submission by writing to the U. S. EPA, Region V office. Written comments must be submitted on or before October 5, 1977.

I have scheduled a public hearing to consider this application and to enable all interested parties to present their views on the State's submission. The hearing will begin at 11 a.m. on October 7, 1977, in the Manty Conference Room, Michigan Department of Public Health in Lansing, Michigan.

Oral statements will be heard and considered, but, for accuracy of the record, all testimony should be submitted in writing.

Statements should summarize extensive written material, so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the hearing officer and other interested persons.

The hearing officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard or if it is not relevant to the decision to approve or require revision to the State program as submitted.

Further information about the public hearing may be obtained by writing the Water Supply Branch of the U. S. EPA, Region V, or by calling Joseph Harrison at (312)353-2151, or by writing the Bureau of Environmental and Occupational Health, Michigan Department of Public Health, or by calling William Kelley at (517)373-1376.

After receiving the record of the hearing, I will issue an order affirming or rescinding this determination. If the determination

is affirmed, it shall become effective as of the date of this notice.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated		

George R. Alexander, Jr.
Regional Administrator
Region V
Environmental Protection Agency

# LIST OF ATTACHMENTS

- Original MDPH Application
   Letter Certification of "State Survey Officer"
   Letters Interim Approval of State Principal Laboratories
   Region V Review
- Region V Concurrences
  - a. Enforcement Division
  - b. Management Division
  - c. Regional Counsel
  - d. Surveillance and Analysis Division

MITACHMEATRICAL COLLABOR COLLABOR

JUL 23 1376

Maurice S. Reizen, M.D.

Director, Michigan Department of Health
Water Laboratory

3500 North Logan Street
Lansing, Michigan 43914

Dear Dr. Reizen:

We wish to thank you for your staff's cooperation and assistance provided to Dr. H. D. Hash, Hr. D. Payne and Hr. F. D. Haddox of the United States Environmental Protection Agency (USEPA) during the microbiological laboratory survey conducted April 12-13, 1976.

Enclosed are a copy of the "Survey Report of the Nichigan Department of Public Health, Mater Laboratory" and a copy of the "Data Mandling and Use Report, Michigan Laboratory Evaluation." Dr. Mash concludes the equipment and procedures employed in the bacteriological analysis of water in this laboratory generally conform with cortain significant deficiencies, to provisions of the Standard Methods for the Examination of Mater and Wastewater and with the provisions of the Interstate Quarantine Drinking Mater Standards.

Your attention is called to the items on pages I and 2 of the Survey Report which identify deficiencies which should be corrected, and pages 3, 4 and 5, which provide remarks on other aspects of the microbiological sampling and analysis program. Of particular importance are those comments on water suitability testing, broth preparation and storage, and pil determinations. The Data Report points out several areas which should be improved in the securing of samples and laboratory results follow-up by the sanitary engineering staff. With the exception of the recommendation that samples greater than 48 hours old should be rejected and water supply operators should be notified immediately of positive samples, the Data Report relates to factors beyond control of the laboratory and is provided primarily for your information.

An action plan to correct the deficiencies noted for items 3, 6, 31, 32, 33 and 35 is requested. This action plan should be submitted within 30 days of receipt of this letter. The Michigan Department of Public Health Mater Laboratory is certified "Approved" contineent upon receipt of the above requested action plan and resolution of the above deficiencies as provided in the accepted action plan.

Dr. Theodoro Williams, Chief, Sanitary Bacteriology and Chemistry Section, is certified as the State Survey Officer for Water Bacteriological Reports. Dr. Su-chan Mau, Euctoriologist and Rosalyn Bengel, Laboratory Technician are approved for application of the total coliform membrane filter test to the bacteriological examination of drinking water.

We note that the staff provided is marginal with regard to the workload, but wish to commend you for the highly qualified staff you are maintaining. We look forward to continued cooperation with your office.

Sincerely yours,

Henry L. Longest II, P.E. Director, Water Division

Englosures

5%D: Maddox: CL450: mmr: 7/22/76

Copies sent to the following with enclosures:

Harry D. Nash, Cincinnati, Ohio
Roger Lee, Washington, D. C.
Theodore Williams, Lansing, Michigan
Dave Payne, Chicago, Ill (CRL)
John Vogt, Lansing, Michigan

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Dr. Throdore Williams, Chief Senitary Factoriology and Chamistry Section Dureau of Disease Control and Inboratories 3500 North Logan Street Lansing, Michigan 48914

Dear Dr. Williams:

As you know the National Interim Primary Driving Water Regulations (NIPDAR), including requirements for sampling frequency and analytical methods, became effective June 24, 1977. Section 141.23 of AIPDAR requires that chemical, radiochemical, and microbiological determinations may only be considered if they are analyzed in an approved laboratory.

Although guidance on the Interim Certification of Water Supply Laboratories Program has not been finalized, our directions do provide for an approval of laboratories on an interim basis. The State has identified the Sanitary Pacteriology and Chemistry Section, Bureau of Disease Control and Laboratories as capable of performing the attached chemical and microbological analyses in an acceptable manner.

At the time the State of Michigan is determined to have primary enforcement responsibility for public water systems covered by the Safe Drinking Water Act this approval shall satisfy Section 142.10(b)(4) of the regulations, assurance of the availability and capability of laboratory facilities. Upon adoption of the Interia Certification of Mater Supply Laboratory Guidelines and Programs this approval will be reviewed by the U.S. Tavironmental Protection Agency. The review shall include a site visit and inspection to assure that the guidelines are being met. This review shall result in certification and/or withdrawal of the approval granted by this letter for the attached list of analyses. In the interim, should compliance monitoring by the Region V USIPA find your laboratory precedures to be in error, this interim approval may be rescinded in whole or in part.

Should you have any questions regarding this program please contact Mr. David Payne, Guility Assurance Office, 1819 West Pershing Read, Chicago, Illinois 60609, (312-353-8370).

Sincerely yours,

George R. Alexander, Jr. Regional Administrator

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Kitrates

Total Coliform - Kultiple Tube Fermentation Technique

Total Coliform - Membrane Filter Mathed

Fluoride

Mr. Lonald Van Ferove, Chief Radiological Health Idvision Bureau of Environtantal and Occupational Health 3500 North Logan Street Lansing, Nichigen 40914

#### . Dear Fir. Van Farcke:

As you know the National Interim Privary Drinking Water Regulations (MIPDER), including requirements for sampling frequency and analytical notheds, became difective June 24, 1977. Section 141.28 of HIPDER requires that chemical, radiochemical, and microbiological determinations may only be considered if they are analyzed in an approved laboratory.

Although guidance on the Interim Certification of Water Supply Laboratories Program has not been finalized, our directions do provide for an approval of laboratories on an interim basis. The State has identified the Radiological Health Division Laboratory, Bureau of Invironmental and Occupational Health as capable of performing the attached radiochemical analyses in an acceptable manner.

At the time the State of Michigan is determined to have primary enforcement responsibility for public vater systems covered by the Safe Drinking Water Act this approval shall satisfy Section 142.18(b)(4) of the regulations, assurance of the availability and capability of laboratory facilities. Upon adoption of the Interim Certification of Water Supply Laboratory Guidelines and Programs this approval will be reviewed by the U.S. Environmental Protection Agency. The review shall include a site visit and inspection to assure that the guidelines are being met. This review shall result in certification and/or withdrawal of the approval granted by this letter for the attached list of analyses. In the interim, should compliance conitoring by the Region V USEDA find year laboratory procedures to be in error, this interim approval may be rescanded in whole or in part.

Should you have any questions regarding this program please contect Pr. David Payne, Quality Assurance Office, 1819 West Pershing Road, Chicago, Illinois 60609, (312-353-8370).

Sincerely yours,

George R. Alexander, Jr. Regional Administrator

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#### MICHIGAN

Region V Review of State Water Supply Program for Primary Enforcement Responsibility

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# Primacy Requirement

#### Comment

# 1. Primary Regulations

Section 142.10(a) State primary drinking water regulations no less stringent than Federal regulations

# 2. Inventory

Section 142.10(b)(1)
Adequate State procedures to
maintain an inventory of public
water systems

# 3. <u>Sanitary Survey</u>

Section 142.10(b)(2)
The State must have a systematic program for sanitary surveys

# 4. Laboratory Certification

Section 142.10(b)(3)
The State must have a laboratory certification or approval program.

# Rules need to be enacted

The Michigan SDWA has adopted MCL's for some of the contaminants (Exhibit 1, Sec. 6); however, MCL's for radiological contaminants, analytical methods, and monitoring requirements were not adopted. The draft rules (Exhibit 2, Parts 9, 20, 22) are no less stringent for radiological contaminants, analytical methods, and monitoring; therefore, this requirement will be met when they are enacted. An analysis of a check sample plus results of other samples collected in the vicinity of the suspected contamination will afford health protection equivalent to that provided by two "check" samples.

# Satisfactory

State has been updating its community water system inventory and has begun the non-community water system inventory. Also, the State will implement the Model State Information System, as they have stated in the "Status for Meeting Requirements for Primacy" (hereafter referred to as "Status").-B

#### Satisfactory

The State presently conducts sanitary surveys of water systems. Priority will be determined after the inventory and the pilot sanitary survey studies are completed, with continued control of community systems being stressed. ("Status" -C)

# Satisfactory

The State has an acceptable program for certifying bacteriological laboratories. (Attachment 3) and turbidity analysts and the State will perform all of the required chemical and radiological analyses. ("Status"-D)

# Laboratory Capability

Section T42.10(b)(4)
The State must have access to laboratory facilities approved or certified by EPA.

# 6. Plan Review

Section 142.10(b)(5)
The State must have an activity to assure that new or substantially modified PWS's are capable of complying with the primary regulations.

### 7. Coverage

Section 142.10(b)(6)(i)
The State must be able to apply
State primary standards to all
PWSS that are within the State's
jurisdiction, in accordance with
EPA regulations.

# 8. Authority to Sue

Section 142.10(b)(6)(ii)
The State must have authority to sue in courts of competent jurisdiction to enjoin any violation of State Primary Drinking Water Regulations.

# 9. Right of Entry

Section 142.10(b)(6)(iii)
Right of entry and inspection
of public water systems, including the right to take water
samples regardless of whether
the State has evidence that the
system is in violation.

# Satisfactory

The State has provided names of bacteriological laboratories to receive interim EPA approvals. This approval and the EPA interim approvals of the MDPH laboratories have been provided by the Region. (Attachment 4)

# Satisfactory

The State reviews plans and specifications for public water system construction. ("Status" -F)

# Satisfactory

The State definition includes all public water systems that are included in the Federal definition (Exhibit 1, Sec. 2(j), AG opinion - Requirement 7)

# Satisfactory

The State has injunctive authority to enforce the Michigan SDWA. (Exhibit 1, Section 22, AG opinion - Requirement 8)

# <u>Satisfactory</u>

The Michigan SDWA (Exhibit 1, Sec. 3) provides the right-of-entry, and this includes the right to take samples (AG opinion - Requirement 9).

# 10. Records and Reports

Section 142.10(b)(6)(iv) Authority to require suppliers of water to keep appropriate records and make appropriate reports.

# 11. Public Notice

Section 142.10(b)(6)(v)
Authority to require public water
systems to give public notice of
violation of State primary drinking
water regulations to the extent set
forth in Section 142.16.

# 12. Penalties

Section 142.10(b)(6)(vi)
The State must have authority
to assess civil or criminal penalties for violation of its Primary
Drinking Water Regulations.

# 13. State Record Keeping and Reporting

Section 142.10(c)
The State must establish and maintain record keeping and reporting of its activities in compliance with Section 142.14 and 142.15.

#### Rules need to be enacted

The Michigan SDWA (Exhibit 1, Sec. 14) requires maintenance of records and filing of reports. The specific rules still need to be enacted, however. ("Status" j,1) The draft rules (Exhibit 2 - Parts 17 and 20) are as stringent. Therefore, this requirement will be met when they are enacted.

# Rules need to be enacted

The Michigan SDWA (Exhibit 1, Sec. 19) requires public notice. The specific rules, to be as stringent as 40 CFR 142.16, still need to be enacted ("Status" -K). The draft rules (Exhibit 2 - Part 6) are as stringent; therefore, this requirement will be met when they are enacted. The public notice requirements for bacteriological samples (Exhibit 2, Part 20) are no less stringent, because they require the notification of the affected consumers, without unduly alarming consumers who are not affected. A violation in Michigan is defined not to include sampling errors; therefore, an investigation is needed to determine whether or not there has been a violation. Region V will monitor the Michigan practice to assure that notices are given in the first set of water bills of the system issued after the failure or the grant.

#### Satisfactory

The Michigan SDWA (Exhibit 1, Sec. 22) provides for a fine of up to \$5,000 per day of violation (AG opinion - Requirement 12).

#### Satisfactory

The State has agreed to keep records and make reports to EPA ("Status" -M). The MDPH will use MSIS to accomplish this reporting.

#### Primacy Requirement

#### Comment

# Variances and Exemptions

Section 142.10(d) Variance and exemption requirements

# Satisfactory

The State has authority (Exhibit 1, Sec. 20; AG opinion - Requirement 14) to grant variances and exemptions in accordance with P.L. 93-523 and the EPA regulations. State rules must still be enacted, but they must be at least as stringent as the EPA regulations; therefore, this requirement is met.

# 5. Emergency Plan

Section 142.10(e)
The State must have provision for safe drinking water under emergency conditions.

# <u>Satisfactory</u>

The State has an emergency plan. (Exhibit 4)

Region V recommends a determination that Michigan has met the requirements for primary enforcement responsibility for public water system supervision under the Safe Drinking Water Act, P.L. 93-523, provided that the Proposed Administrative Rules are enacted in a form that is essentially similar to the present draft, so far as the rules relate to the above referenced 15 requirements for primacy. The review process should be completed, with the assumption that the MDPH rules will become effective in the interim. If the rules have not yet become effective, after final EPA approval, then notification of the primacy determination should be delayed until the rules are enacted.

# UNITED ATES ENVIRONMENTAL PROTECTION REGION V

DATE:

AUG 10 1977

SUBJECT:

Concurrence with Federal Register Package for the State of Michigan Application for Primacy Under the Safe Drinking Water Act

FROM:

James O. McDonald, Director Enforcement Division

TO:

Charles H. Sutfin, Director Water Division

The Enforcement Division concurs with the package prepared for publication in the Federal Register for the above referenced application. This concurrence is based upon the belief that the Michigan enabling legislation is stringent enough to assure adequate enforcement of the Safe Drinking Water Act.

The Enforcement Division wishes to reiterate that public hearings are premature prior to the finalization of Michigan's regulations.

James O. McDonald

# UNITED TATES ENVIRONMENTAL PROTECTION

DATE: August 15, 1977

SUBJECT: Proposed Approval Notice for Michigan SDWA Primacy Application

FROM Joel Margolis, Acting Chief Manpower Development Branch

To: Charles Sutfin, Director Water Division

We concur with this proposed approval notice.

# TELEPHONE CONVERSATION RECORD

DATE: 16 August TIME: 0900
TO: Maney Manley, hater Supply Branch FROM: Robert Luss, Ofe of Regional Coun
SUBJECT: Core miner Mino for Michigan SDUVA FR Notice
RESUME OF CONVERSATION: Bob Luss says the Federal Resider notice
is acceptable and the Office of Regional Courses concars
in it's comance. The ment is now being hard and
will be sent to Mc Suttin when it is available.
,
REFERRED TO:
ACTION REQUESTED:
BY:

1 (1) 4 (1) April 1 (2) 7 (2)

# \_UNITED : THE ENVIRONMENTAL PROTECT'

Concurrence with Proposed Approval Notice for Michigan SDWA With Reservations Concerning Incompleteness of Application in the Area of Describing States

Interim Program for Approval of Microbiology

Laboratories

FROM:

Chris Timm, Director

S&A Division, Region V

TO:

Charles H. Sutfin, Director Water Division, Region V

The Surveillance and Analysis Division has reviewed the proposed approval notice for the Michigan SDWA primacy application. We agree that Michigan's application move onward but that Michigan's application is still incomplete in one area - Requirement #4 (Laboratory Certification).

We do not think the application should be stopped because of this requirement since we know such a program exists and it is not appropriate to review the technical content of such a program until national guidelines are finalized. It would be appropriate to amend the application at some convenient later date with a proper description of the States plan for interim approval of local microbiology laboratories.

The laboratory approval plan which the States will use in support of the SDWA and which is to be part of an initial State primacy application is defined by Section 142.10(b)(3) as "until such time as the agency establishes a national quality assurance program for laboratory certification the State shall maintain an interim program for the purposes of approving those laboratories from which the required analytical measurements will be acceptable".

Attachment #3 to your memo of August 4, 1977 notes that the State of Michigan primary laboratory is acceptable for microbiological testing after correction of specific deficiencies and that Dr. Williams is acceptable as the State Survey Officer for the Interstate Carrier Program. This letter of July 23, 1976 should not be considered a description of an interim laboratory approval program.

We think it appropriate that a description of an interim laboratory approval program include the statement that it exists at present time, that it is administratively or organizationally described, that criteria exist for the evaluation of local laboratories, and that State laws and/or regulations be included to show the State has authority for maintenance of such a program.

It is not the intent for the S&A Division to review the technical content of such a program but only that the primacy application be complete, Until guidance is finalized a State must only have an interim laboratory

approval program. Since we believe that Michigan has such a program for microbiology laboratories and we believe that it is operated in accordance with past policies of the Interstate Carrier Program, we think it appropriate that Michigan's primacy application proceed. We recommend though, that the application itself be considered incomplete because the interim program is not described.

UNITED ATES ENVIRONMENTAL PROTECTION AS ANCY

DATE:

4 1977 AUG

REGION V

SUBJECT:

Proposed Approval Notice for Michigan SDWA Primacy Application

FROM:

Director, Water'

TO: See Below

> Enclosed for your concurrence is the Proposed Approval Notice for the Michigan Department of Public Health's (MDPH) application for primary enforcement responsibility for public water system supervision. We have also included additional information for your review of this notice.

We need to receive your concurrence, or a memo stating the reasons for nonconcurrence, by COB, August 15, 1977. Please note that, based on the memo from Regional Counsel, we are progressing with the review process in order to provide a timely review. We also expect to receive a later draft of the MDPH draft rules that will include some changes in the public notification rules.

#### List of Attachments:

Region V Review

Information Pertaining to Region V Comments

3. Letter - Certification of "State Survey Officer"

Letters - Interim Approval of State Principal Laboratories Region V Comments (None received from Management Division)

> Enforcement Division a.

b. Regional Counsel

Surveillance and Analysis Division

# Copies to:

Thomas Larsen, OGC (2 copies) Donald Wallgren, S&A David Payne, S&A Dale Bryson, Enforcement Thomas Yeates, Management Joel Brandon, Management Robert Luss, Regional Counsel

# ENVIRONMENTAL PROTECTION AGENCY WATER PROGRAMS

# DETERMINATION OF PRIMARY ENFORCEMENT RESPONSIBILITY STATE OF MICHIGAN

#### PUBLIC NOTICE

This public notice is issued under section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and section 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

A submission, dated July 7, 1977, has been received from the Director, requesting a determination that the Michigan Department of Public Health has met requirements for primary enforcement responsibility for public water systems in the State of Michigan, in accordance with the provisions of this Act.

In response, I have determined that the Michigan Department of Public Health will meet all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Michigan. The State--

- (1) will adopt drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;
- (2) will adopt and implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

- (3) will keep such records and make such reports as required;
- (4) will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;
- (5) will adopt and implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Bureau of Environmental and Occupational Health Michigan Department of Public Health 3500 North Logan Street Lansing, Michigan 48914

Michigan Department of Public Health 305 Ludington Street Escanaba, Michigan 49829

Water Supply Branch Environmental Protection Agency, Region V 230 South Dearborn Street Chicago, Illinois 60604

Any interested person may comment upon the State submission by writing to the U. S. EPA, Region V office. Written comments must be submitted on or before October 5, 1977.

I have scheduled a public hearing to consider this application and to enable all interested parties to present their views on the State's submission. The hearing will begin at 11 a.m. on October 7, 1977 in the Manty Conference Room, Michigan Department of Public Health in Lansing, Michigan.

Oral statements will be heard and considered, but, for accuracy of the record, all testimony should be submitted in writing.

Statements should summarize extensive written material, so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the hearing officer and other interested persons.

The hearing officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard or if it is not relevant to the decision to approve or require revision to the State program as submitted.

Further information about the public hearing may be obtained by writing the Water Supply Branch of the U. S. EPA, Region V, or by calling Joseph Harrison at (312)353-2151 or by writing the Bureau of Environmental and Occupational Health, Michigan Department of Public Health or by calling William Kelley at (517)373-1376.

After receiving the record of the hearing, I will issue an order affirming or rescinding this determination. If the determination

is affirmed, it shall become effective as of the date of this notice.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated	•

George R. Alexander, Jr.
Regional Administrator
Region V
Environmental Protection Agency

#### MICHIGAN

Region V Review of State Water Supply Program for Primary Enforcement Responsibility

#### Primacy Requirement

#### Comment

# 1. Primary Regulations

Section 142.10(a) State primary drinking water regulations no less stringent than Federal regulations

# 2. Inventory

Section 142.10(b)(1)
Adequate State procedures to
maintain an inventory of public
water systems

# 3. Sanitary Survey

Section 142.10(b)(2) The State must have a systematic program for sanitary surveys

#### 4. Laboratory Certification

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# Rules need to be enacted

The Michigan SDWA has adopted MCL's for some of the contaminants (Exhibit 1, Sec. 6); however, MCL's for radiological contaminants, analytical methods, and monitoring requirements were not adopted. The draft rules (Exhibit 2, Parts 9, 20, 22) are no less stringent for radiological contaminants, analytical methods, and monitoring; therefore, this requirement will be met when they are enacted. An analysis of a check sample plus results of other samples collected in the vicinity of the suspected contamination will afford health protection equivalent to that provided by two "check" samples.

# Satisfactory

State has been updating its community water system inventory and has begun the non-community water system inventory. Also, the State will implement the Model State Information System, as they have stated in the "Status for Meeting Requirements for Primacy" (hereafter referred to as "Status" 2-8

#### Satisfactory

The State presently conducts sanitary surveys of water systems. Priority will be determined after the inventory and the pilot sanitary survey studies are completed, with continued control of community systems being stressed. ("Status" -C)

#### Satisfactory

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# Laboratory Capability

Section 142.10(b)(4) The State must have access to laboratory facilities approved or certified by EPA.

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#### 7. Coverage

Section 142.10(b)(6)(i)
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State primary standards to all
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jurisdiction, in accordance with
EPA regulations.

#### 8. Authority to Sue

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The State must have authority to sue in courts of competent jurisdiction to enjoin any violation of State Primary Drinking Water Regulations.

#### 9. Right of Entry

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system is in violation.

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Authority to require public water
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water regulations to the extent set
forth in Section 142.16.

#### 12. Penalties

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# 13. State Record Keeping and Reporting

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The State must establish and maintain record keeping and reporting of its activities in compliance with Section 142.14 and 142.15.

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The Michigan SDWA (Exhibit 1, Sec. 14) requires maintenance of records and filing of reports. The specific rules still need to be enacted, however. ("Status" j,1) The draft rules (Exhibit 2 - Parts 17 and 20) are as stringent. Therefore, this requirement will be met when they are enacted.

#### Rules need to be enacted

The Michigan SDWA (Exhibit 1, Sec. 19) requires public notice. The specific rules, to be as stringent as 40 CFR 142.16, still need to be enacted ("Status" -K). The draft rules (Exhibit 2 - Part 6) are as stringent; therefore, this requirement will be met when they are enacted. The public notice requirements for bacteriological samples (Exhibit 2, Part 20) are no less stringent, because they require the notification of the affected consumers, without unduly alarming consumers who are not affected. A violation in Michigan is defined not to include sampling errors; therefore, an investigation is needed to determine whether or not there has been a violation. Region V will monitor the Michigan practice to assure that notices are given in the first set of water bills of the system issued after the failure or the grant.

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#### Satisfactory

The State has agreed to keep records and make reports to EPA ("Status" -M). The MDPH will use MSIS to accomplish this reporting.

# 14. Variances and Exemptions

Section 142.10(d) Variance and exemption requirements

# Satisfactory

The State has authority (Exhibit 1, Sec. 20; AG opinion - Requirement 14) to grant variances and exemptions in accordance with P.L. 93-523 and the EPA regulations. State rules must still be enacted, but they must be at least as stringent as the EPA regulations; therefore, this requirement is met.

# 15. <u>Emergency Plan</u>

Section 142.10(e)
The State must have provision for safe drinking water under emergency conditions.

# Satisfactory

The State has an emergency plan. (Exhibit 4)

Region V recommends a determination that Michigan has met the requirements for primary enforcement responsibility for public water system supervision under the Safe Drinking Water Act, P.L. 93-523, provided that the Proposed Administrative Rules are enacted in a form that is essentially similar to the present draft, so far as the rules relate to the above referenced 15 requirements for primacy. The review process should be completed, with the assumption that the MDPH rules will become effective in the interim. If the rules have not yet become effective, after final EPA approval, then notification of the primacy determination should be delayed until the rules are enacted.

# INFORMATION PERTAINING TO REGION V COMMENTS

The following comments pertain to submittals received from Region V (numbers have been added to the Region V submittals to correspond to these numbers).

- ED: 1. Regional Counsel (see their submittal) has determined that we are able to continue with the review process through the public hearing.
- S&A: 2. The MDPH has an EPA approved State Survey Officer for Water Bacteriological Reports (although he is a chemist, he is responsible for and knowledgeable about water microbiology), and an approved bacteriological certification program (July 23, 1976 letter to Dr. Reizen).
  - 3. If the State rules do not pertain to primacy, the State is not required to submit them for review. However, if any proposed rules in the future are submitted for comment, they will be distributed for review.
  - 4. The WSB will discuss with the MDPH about adding a statement that the MDPH may alter the monitoring requirements by requiring a greater sampling frequency.
    - 5. Since this was not addressed in the Federal regulations, the MDPH had to develop their own method concerning unreliable samples. Their requirement is acceptable, because it is a logical solution for controlling this situation in the absence of EPA regulations. The MDPH has been notified about the suggestion that the rules be changed to include a requirement that laboratories notify water suppliers when an unreliable sample is received.
    - 6. Regional Counsel is requested to respond to this comment. The comment pertains to 40 CFR 141.2(c), however.
  - 7. The MDPH has been notified of this error in the EPA regulations. However, since this was originally an EPA error, and because this is a minor error, this is not considered important enough to deny primacy.
    - 8. The MDPH has been notified about suggestion to use a l liter minimum aliquot for organic sampling; but this is not an absolute requirement for primacy.
    - 9. It should be noted that this is the Michigan Department of Public Health and not the Michigan DNR.

ATTACHMENTER Mich. Lab.
Could. file

JUL 23 1976

Maurice S. Reizen, M.D.

Director, Michigan Department of Health
Water Laboratory

3500 North Logan Street
Lansing, Michigan 43914

Dear Dr. Reizen:

We wish to thank you for your staff's cooperation and assistance provided to Dr. H. D. Hash, Mr. D. Payne and Mr. F. D. Haddox of the United States Environmental Protection Agency (USEPA) during the microbiological laboratory survey conducted April 12-13, 1976.

Enclosed are a copy of the "Survey Report of the Michigan Department of Public Health, Water Laboratory" and a copy of the "Data Handling and Use Report, Michigan Laboratory Evaluation." Dr. Hash concludes the equipment and procedures employed in the bacteriological analysis of water in this laboratory generally conform with certain significant deficiencies, to provisions of the Standard Hethods for the Examination of Water and Wastewater and with the provisions of the Interstate quarantine Drinking Water Standards.

Your attention is called to the items on pages 1 and 2 of the Survey Report which identify deficiencies which should be corrected, and pages 3, 4 and 5, which provide remarks on other aspects of the microbiological sampling and analysis program. Of particular importance are those comments on water suitability testing, broth preparation and storage, and pil determinations. The Data Report points out several areas which should be improved in the securing of samples and laboratory results follow-up by the sanitary engineering staff. With the exception of the recommendation that samples greater than 48 hours old should be rejected and water supply operators should be notified immediately of positive samples, the Data Report relates to factors beyond control of the laboratory and is provided primarily for your information.

An action plan to correct the deficiencies noted for items 3, 6, 31, 32, 33 and 35 is requested. This action plan should be submitted within 30 days of receipt of this letter. The Nichigan Department of Public Health Water Laboratory is certified "Approved" contingent upon receipt of the above requested action plan and resolution of the above deficiencies as provided in the accepted action plan.

Dr. Theodore Williams, Chief, Sanitary Bacteriology and Chemistry Section, is certified as the State Survey Officer for Mater Bacteriological Reports. Dr. Su-chan Msu, Cacteriologist and Rosalyn Bengel, Laboratory Technician are approved for application of the total coliform membrane filter test to the bacteriological examination of drinking water.

We note that the staff provided is marginal with regard to the workload, but wish to commend you for the highly qualified staff you are maintaining. We look forward to continued cooperation with your office.

Sincerely yours,

Henry L. Longest II, P.E. Director, Water Division

Enclosures

5%D: Haddox: CL450:swr:7/22/76

Copies sent to the following with enclosures:
Harry D. Nash, Cincinnati, Ohio
Roger Lee, Washington, D. C.
Theodore Williams, Lansing, Michigan
Dave Payne, Chicago, Ill (CRL)
John Vogt, Lansing, Michigan

SYMBOL DO CONCURRENCES.

SYMBOL DO CONCURRENCE

Dr. Theodore Williams, Chief Samitary Esctoriology and Chemistry Section Dureau of Disease Control and Laboratories 3500 North Logan Street Lansing, Michigan 48914

#### Dear Dr. Williams:

As you know the National Interim Primary Drinking Water Regulations (NIPDAR), including requirements for sampling frequency and analytical methods, became diffective June 24, 1977. Section 141.23 of NIPDAR requires that chemical, radiochemical, and microbiological determinations may only be considered if they are analyzed in an approved laboratory.

Although guidance on the Interim Certification of Water Supply Laboratories Program has not been finalized, our directions do provide for an approval of laboratories on an interin basis. The State has identified the Semitary Pacteriology and Chemistry Section, Bureau of Disease Control and Laboratories as capable of performing the attached chemical and microbological analyses in an acceptable manner.

At the time the State of Michigan is determined to have primary enforcement responsibility for public water systems covered by the Safe Drinking Water Act this approval shall satisfy Section 142.10(b)(4) of the regulations, assurance of the availability and capability of laboratory facilities. Upon adeption of the Interim Certification of Water Supply Laboratory Guidelines and Programs this approval will be reviewed by the U.S. Environmental Protection Agency. The review shall include a site visit and inspection to assure that the guidelines are being not. This review shall result in certification and/or withdrawal of the approval granted by this letter for the attached list of analyses. In the interim, should compliance monitoring by the Region V USLPA find your laboratory procedures to be in error, this interim approval may be rescinded in whole or in part.

Should you have any questions regarding this program please contact Mr. David Payno, Quality Assurance Office, 1819 West Pershing Road, Chicago, Illinois 60609, (312-353-6370).

Sincerely yours,

George R. Alexander, Jr. Regional Administrator

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# MIC ACCUMINATION OF PUBLIC HEAL.

Arsenic

Barium

Cadmium

Chromium

Lead

Mercury

Selenium

Silver

Chlorinated Hydrocarbons Endrin, Lindane, Toxaphene, Methoxychlor

Chlorophenoxys 2,4-D, 2, 4, 5-TP

Turbidity

Nitrates

Total Coliform - Aultiple Tube Fermentation Technique

Total Coliform - Membrane Filter Nethod

Fluoride

Mr. Remeld Van Farche, Chief Radiological Realth Fivision Bureau of Environmental and Occupational Health 3500 Morth Legan Street Lansing, Michigan 48914

#### Dear Mr. Van Farcwe:

As you know the National Interim Privary Drinking Water Regulations (NIPDUR), including requirements for sampling frequency and analytical notheds, became effective June 24, 1977. Section 161.28 of NIPDUR requires that chemical, radiochemical, and microbiological determinations may only be considered if they are analyzed in an approved laboratory.

Although guidance on the Interim Certification of Vater Supply Laboratories Program has not been finalized, our directions do provide for an approval of laboratories on an interim basis. The State has identified the Radiological Health Division Laboratory, Bureau of Invironmental and Occupational Health as capable of performing the attached radiochemical analyses in an acceptable manner.

At the time the State of Michigan is determined to have primary enforcement responsibility for public water systems covered by the Safe Drinking Water Act this approval shall satisfy Section 142.10(b)(4) of the regulations, assurance of the availability and capability of laboratory facilities. Upon adoption of the Interim Certification of Water Supply Laboratory Guidelines and Programs this approval will be reviewed by the U.S. Environmental Protection Agency. The review shall include a site visit and inspection to assure that the guidelines are being met. This review shall result in certification end/or withdrawal of the approval granted by this letter for the attached list of analyses. In the interim, should compliance monitoring by the Region V USIPA find your laboratory procedures to be in error, this interim approval may be rescinded in whole or in part.

Should you have any questions regarding this program please contact Mr. David Payne, Quality Assurance Office, 1819 West Pershing Road, Chicago, Illinois 60609, (312-353-8570).

Sincerely yours,

George R. Alexander, Jr. Reviewal Administrator

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UNITED

ATES ENVIRONMENTAL PROTECTION .

· JUL 28 1977

REGION V

SUBJECT: Comments on Preliminary Draft - Michigan Application for Primacy Under Safe Drinking Water Act

FROM: James O. McDonald, Director Enforcement Division

TO: Charles H. Sutfin, Director, Water Division

After review of the above-referenced application, the Enforcement Division agrees with the preliminary determination of the Water Supply Branch that the State of Michigan has adequate authority to enforce the provision of the Michigan Safe Drinking Water Act in a manner at least as stringent as Public Law 93-523.

Despite agreement of the Enforcement Division indicated above, the application cannot be approved until the Michigan rules are final and effective. Because of the speculative nature of administrative processes, the application should not be processed beyond the point of making a preliminary determination. This preliminary determination should not be public noticed until the rules are final and no public hearing on the application would be held until that time.

We understand the constraints under which the Water Supply Branch is working and we will be available to discuss our comments at your convenience.

James O. McDonald

DATE: JUL 2 5 1977

SUBJECT: Regional Counsel's Review of Michigan's Application for SDWA Primacy

FROM: Robert D. Luss, Assistant Regional Counsel AUX

THRU: Thomas F. Harrison, Regional Counsel

TO: Charles H. Sutfin, Director, Water Division

This office has completed its review of Michigan's application for SDWA primacy. The Michigan Safe Drinking Water Act, passed during the last session, contains all the necessary legal authorities to enable Michigan to satisfy the requirements of 40 C.F.R. §142.10. However, regulations (rules) are needed to implement certain sections of the MSDWA. The proposed General Rules, submitted as part of the application, satisfy the §142.10 requirements not covered by the MSDWA.

The Office of Regional Counsel recommends that the application be approved and we go to the Federal Register with the determination that Michigan has met all the requirements of primacy. This is contingent upon final enactment of the General Rules in a form similar to the one that accompanied the application. We anticipate after discussion with the state, that the General Rules will be fully effective prior to the date for EPA final approval. If they have not yet become effective, EPA should hold up our final approval. We, of course, desire to review the final General Rules prior to the decision being made to grant final approval.

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FUT 50

SUBJECT: State of Michigan's Application for SDWA Primacy

DATE: July 25, 1977

FROM:

Christopher M. Timm, Direct

S&A Division, Region V

TO:

Joseph Harrison, Chief

Water Supply Branch, Region V

As per the request of the Director, Water Division, Region V we are providing you comments on Michigan's request for SDWA primacy.

Comments and recommendations for approval or disapproval of Michigan's rules and regulations are attached.

Please contact the Quality Assurance Office if you have questions concerning the comments.

# QUALITY ASSURANCE OFFICE REVIEW JULY 25, 1977

#### MICHIGAN

REVIEW OF STATE WATER SUPPLY PROGRAM FOR PRIMARY ENFORCEMENT RESPONSIBILITY

#### PRIMACY REQUIREMENT

# 1. Primary Regulations Section 142.10(a) State primary drinking water regulations no less stringent than Federal regulations

# 2. Inventory Section 142.10(b)(1) Adequate State procedures to maintain an inventory of public water systems

- 3. Sanitary Survey
  Section 142.10(b)(2) The State must have a systematic program for sanitary surveys.
- 4. Laboratory Certification
  Section 142.10(b)(3) The State must have a laboratory certification or approval program

#### COMMENT

No Recommendations
No comments

No Recommendations No Comments

No Recommendations
No comments

We recommend disapproval of this section until Michigan's MHD Part 22, dealing with laboratory certification (proposed) is attached to the primacy application for review.

Michigan has established a laboratory certification program. However, their interim laboratory certification plan is not attached to the primacy application as required by 40 CFR 142.10(b)(3). A commitment should be obtained from Michigan to update their laboratory certification to be as stringent as the national program, as soon as the national program becomes available (see additional comments under MHD Part 23).

Michigan has indicated the State laboratory will be the primary laboratory for
chemistry and radiochemistry, so there will
be no need for a chemistry and radiochemistry laboratory certification program
in these two areas. A chemist has been
identified as the certification officer for
the microbiology certification program. To
lend credibility to a microbioloby laboratory certification program the certification officer should be a microbiologist.

Please Note: having a chemist involved in the State Training and Certification

7

5. Laboratory Capability Section 142.10(b)(4) The State

Program for water plant operators is appropriate and we feel this step is highly desirable.

must have access to Laboratory facilities approved or certified by EPA.

We recommend interim approval of the Michigan Department of Public Health Laboratories as the State's primary. laboratory for microbiology, inorganic chemistry, organic chemistry and radiochemistry with the minor changes listed under MHD Part 22, if MHD Part 22 is adopted with the changes.

The proposed laboratory methods the State has indicated in their application for primacy meets the minimum requirements specified by EPA's Draft Interim Certification Guidelines of December 1976. A few minor changes as pointed out in the comments for Michigan MHD Part 22 are needed, however.

#### 6 to 15. Primacy Requirements

Plan Review - Section 142.10(b)(5)

Coverage - Section 142.10(b)(6)(i)

Authority to Sue - Section 142.10(b)(6)(ii)

Right of Entry - Section 142.10(b)(6)(iii)

Records and Reports - Section 142.10(b)(6)(iv)

Public Notice - Section 142.10(b)(6)(v)

Penalties - Section 142.10(b)(6)(vi)

State Record Keeping and Reporting-Section 142.10(c)

Variances and Exemption - Section 142.10(d)

Emergency Plan - Section 142.10(e)

16. MHD Part 1 - General Provisions (Proposed)

Recommend approval if adopted as proposed. No Comments

17. MHD Part 2 - Definitions (proposed) Recommend approval if adopted as proposed. No Comments

18. and Procedures (proposed)

MHD Part 3 - Organization, Operations Recommend approval if adopted as proposed. No Comments

19. MHD Part 4 - Hearing and Contested (proposed)

No Recommendations No Comments

No Recommendations

No Comments

MHD Part 5 - Variances and Exemptions No Recommendations (proposed)

No Comments

MHD Part 6 - Public Notification (proposed)

No Recommendations No comments

Program for water plant operators to appropriate and we feet this stop is highly desigable.

by Laborator, Cupablity Rection 142.10(b)(4) The State must have access to Laboratory facilities approved or certified

We recommend inverim orrected of the Michigan Department o seelic because Labour tordes as the State's or reco Charles or structured to the control of the second control of the second of the second

The proposed laboratory aschods the Statehas indicated in their application for primacy weeks the office requirements specified by APN's trait Intento the ofference of the Cartion Guidelines of Bucamber 1886. รัตรายนุณลา หมายการ และหมาก กลิ เหล่ม น้อยุที่น่อ commons los tachigas dis Port 21 are needed, however,

Princey Requirements Plan Review - Section 142.40(b)(5) To arage - Section 142.10(b)(6)(1) Authority to Sue - Section 142.10(h):6)(di)

No Recommendations No Coaments

BARRON TARREST Variences and Exemption - Section  $162 \cdot 10(6)$ Manageman Plan - Section 142.10(a)

16: JRD Part 1 - Ceneral Provisions (Imanosed)

Recommend approval transfer of it properties Wo Comments

Plan Mill Start & - Lefinithour (proposed)

largement approval it was est as proposed. No Comments

and Trocadurus (proposed)

18. MiD Part 3 - Organization, Operations Recommend approval if a hapked by a property ic Journate

WER Fait 4 - Hearing and Commented 1000

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THE Part 5 - Variences and Exemptions No Encounce landons. (propertial)

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22. MHD Part 7 - Reserved for specific water supply rules (proposed)

Recommend that all new proposed rules be submitted to Water Supply and/or QAO so a determination can be made to see if these rules are as stringent as federal regulations and have no adverse effect on the State maintaining primacy before such rules are promulgated.

- 23. MHD Part 8 Types of Public Water Supplies (proposed)
- No Recommendations
  No comments
- 24. MHD Part 9 State Drinking Water Standards (proposed)

Recommend approval if adopted as proposed.
MHD Part 9 State Drinking Water Standards (proposed) is as stringent as Federal regulations. Conforms to 40 CFR 141.14, 141.15 and 141.16.

- 25. MHD Part 10 Ground Water Sources (proposed)
- No Recommendations
  No Comments
- 26. MHD Part 11 Surface Water Sources (proposed)
- No Recommendations
  No comments
- 27. MHD Part 12 Treatment and Pumping Facilities (proposed)
- No Recommendations
  No comments
- 28. MHD Part 13 Distribution Systems and Storage Tanks (proposed)
- No Recommendations
  No comments
- 29. MHD Part 14 Reliability (proposed)
- No Recommendations
  No comments
- 30. MHD Part 15 Construction Plans and Specifications and Permits (proposed)
  - No Recommendations
    No comments
- 31. MHD Part 16 Cross Connections (proposed)
- No Recommendations
  No comment
- 32. MHD Part 17 Reports and Recordkeeping (proposed)
- No Recommendations
  No comments
- 33. MHD Part 18 General Plans (proposed)
- No Recommendations
  No comments
- 34. MHD Part 19 Ownership of Water Supplies (proposed)

Recommend approval if conforms to NIPDWR After proposed regulations is drafted it should be reviewed by Water Supply Branch for conformance with NIPDWR before promulgated by the State.

35. MHD Part 20 - Surveillance, Inspection and Monitoring of Public Water Supplies (proposed)

Recommend approval with changes to the rules listed below.

35a. Rule Bacteriological Monitoring Requirements

Type I public water supplies. This rule appears to be less stringent than 40 CFR 141.21(b). The way this proposed rule is written the department can set a sampling frequency less than the sampling frequency set forth in 40 CFR 141.21(b). The closing of this loop hole will make this rule as stringent as 40 CFR 141.21(b).

35b. Rule Bacteriological Monitoring: Unreliable Samples (proposed)

There is no federal regulation related to this proposed rule. This item will be covered in the interim certification of Water Supply Laboratories rules when they are made available. Until such time as the rules become available this State rule should be modified to require the testing laboratory to contact the public water supplier within 24 hours to submit another sample when unreliable samples are received.

36. MHD Part 21 - Examination and
Certification of Operators
(proposed)

R\_\_\_\_. Variation in classification
and certain deviations
Rule (3)

Recommend approval if the Regional Counsel concurs that this section complies with 40 CFR 142.2(c) last sentence.

This sub rule appears to be in conflict with 40 CFR 142.2(c). An interpretation from Regional Counsel should be obtained.

 MHD Part 22 - Analytical Techniques and Laboratory Certification (proposed) Recommend disapproval of MHD Part 22 (proposed) analytical techniques and laboratory certification, until the items listed below have be submitted for review and the typographical errors that have been identified corrected.

identified corrected.

We think it appropriate that the State of Michigan's Interim Laboratory Approval
Program for microbiological laboratories be forwarded for review so Region V can be assured that this program be as stringent as the expected national interim guidelines for laboratory approval.

A laboratory certification officer has been identified as a chemist.

The Federal Register of July 9, 1976 incorrectly cited section numbers from the 13th edition of "Standard Methods" as method numbers. MHD Part 22, Rule\_\_\_\_, Radioactivity analytical techniques method

numbers should be changed to section

numbers. It is strongly recommended that a l liter minimum sample aliquot size be appended to R Organic Chemical analytical techniques. EPA's future Interim Certification Guidelines will specify the l liter samples size so the approved test procedures sensitivity will be sufficient for all organic chemicals MCL's.

38. MHD Part 23 - Approval of Chemicals and Other Materials (proposed)

No Recommendations
No comments

39. MHD Part 24 - Reserved for Specific Water Supply Rules (proposed) Recommend approval if conforms to NIPDWR After proposed regulation is drafted it should be reviewed by the Water Supply Branch for conformance with NIPDWR before promulgation by the State.

40. MHD Part 25 - Contingency Plans (proposed) No Recommendations
No comments

41. MHD Part 26 - Water Hauling Equipment Standards (proposed)

No Recommendations No comments

42. MHD Part 27 - Licensing of Water Haulers (proposed)

No Recommendations
No comments

43. MHD Part 28 - Bottle Water (proposed)

No Recommendations
No comments

The S&A Division recommends that the review process application continue. The Water Division and S&A Division should continue to work with Michigan DNR on items: 4. Laboratory certification

5. Laboratory capability

35. Analytical Techniques and laboratory certification to implement recommendation presented by the QAO. As soon as these modifications are made the S&A Division recommends a determination that Michigan has met the requirements for primary enforcement responsibility for public water system, supervision under the Safe Drinking Water Act. This recommendation is made provided the proposed Michigan DNR Administrative Rules are enacted as proposed with the changes proposed by this review.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE:

JUL 15 1977

REGION V

SUBJECT:

Michigan's Application for SDWA Primacy

FROM:

Charles H. Sutfin

Director, Water Division

TO:

See Below

We have received an application from the Michigan Department of Public Health for primary enforcement responsibility under the Safe Drinking Water Act. Enclosed is a copy of the application and a preliminary assessment of it by the Water Supply Branch.

We would like you to provide a preliminary review of it. The Approval/Disapproval Notice will be sent, for your concurrence, after the comments are received and reviewed. The Water Supply Branch must receive your comments by COB, July 25, 1977, in order to provide a timely review of the application. If your comments are not received by that time, we must assume you have no comments.

#### **Enclosures**

Copies to:

Thomas Larson, Office of General Counsel (2 copies)
Donald Wallgren, Surveillance & Analysis
David Payne, Surveillance & Analysis
Dale Bryson, Enforcement
Ford Blackwell, Enforcement
Thomas Yeates, Management
Joel Brandon, Management
Joel Margolis, Management
Thomas Harrison, Regional Counsel
Robert Luss, Regional Counsel

# MICHIGAN Water Supply Branch

#### Review of State Water Supply Program for Primary Enforcement Responsibility

#### Primacy Requirement

#### Comment

#### 1. Primary Regulations

Section 142.10(a) State primary drinking water regulations no less stringent than Federal regulations

#### Not Complete

The Michigan SDWA has adopted MCL's for some. of the contaminants (Exhibit 1, Sec. 6); however, MCL's for radiological contaminants analytical methods, and monitoring requirements were not adopted. The draft rules (Exhibit 2, Parts 9, 20, 22) are no less stringent for radiological contaminants, analytical methods and monitoring; therefore, this requirement will be met when they are enacted. The requirements for performing check samples for bacteriological samples are no less stringent because the initiation of the check sample is begun when any sample has exceeded the State MCL for bacterial The State MCL for bacteria is more stringent than the EPA regulations; therefore, the MDPH rules will be no less stringent when they are enacted.

## 2. Inventory

Section 142.10(b)(1) Adequate State procedures to maintain an inventory of public water systems

## 3. Sanitary Survey

Section 142.10(b)(2)
The State must have a systematic program for sanitary surveys.

#### Satisfactory

State has been updating its community water system inventory and has begun the non-community water system inventory. Also, the State will implement the Model State Information System, as they have stated in the "Status for Meeting Requirements for Primacy" (hereafter referred to as "Status")-B

### Satisfactory

The State presently conducts sanitary surveys of water systems. Priority will be determined after the inventory and the pilot sanitary survey studies are completed, with continued control of community systems being stressed. ("Status" -C)

#### 4. Laboratory Certification

Section 142.10(b)(3) The State must have a laboratory certification or approval program.

#### 5. Laboratory Capability

Section 142.10(b)(4) The State must have access to Laboratory facilities approved or certified by EPA.

#### 6. Plan Review

Section 142.10(b)(5)
The State must have an activity
to assure that new or substantially modified PWS's are capable
of complying with the primary
regulations.

#### 7. <u>Coverage</u>

Section 142.10(b)(6)(i)
The State must be able to apply
State primary standards to all
PWSS that are within the State's
jurisdiction, in accordance with
EPA regulations.

#### 8. Authority to Sue

Section 142.10(b)(6)(ii)
The State must have authority to sue in courts of competent jurisdiction to enjoin any violation of State Primary Drinking Water Regulations

#### Satisfactory

The State has an acceptable program for certifying bacteriological laboratories. (Attachment 3) and turbidity analysts and the State will perform all of the required chemical and radiological analyses. ("Status"-D)

#### Satisfactory

The State has provided names of bacteriological laboratories to receive interim EPA approvals. This approval and the EPA interim approvals of the MDPH laboratories have been provided by the Region. (Attachment 4)

#### Satisfactory

The State reviews plans and specifications for public water system construction. ("Status" -F)

#### Satisfactory

The State definition includes all public water systems that are included in the Federal definition (Exhibit 1, Sec. 2(j), AG opinion - Requirement 7)

#### Satisfactory

The State has injunctive authority to enforce the Michigan SDWA. (Exhibit 1, Section 22, AG opinion - Requirement 8)

#### 9. Right of Entry

Section 142.10(b)(6)(iii)
Right of entry and inspection
of public water systems,
including the right to take
water samples regardless of
whether the State has evidence
that the system is in violation.

#### 10. Records and Reports

Section 142.10(b)(6)(iv) Authority to require suppliers of water to keep appropriate records and make appropriate reports.

#### 11. Public Notice

Section 142.10(b)(6)(v) Authority to require public water systems to give public notice of violation of State primary drinking water regulations to the extent set forth in Section 142.16.

#### 12. Penalties

Section 142.10(b)(6)(vi)
The State must have authority
to assess civil or criminal penalties for violation of its Primary
Drinking Water Regulations.

#### Satisfactory

The Michigan SDWA (Exhibit 1, Sec. 3) provides the right-of-entry, and this includes the right to take samples (AG opinion - Requirement 9).

#### Not Complete

The Michigan SDWA (Exhibit 1, Sec. 14) requires maintenance of records and filing of reports. The specific rules still need to be enacted, however. ("Status" J,1) The draft rules (Exhibit 2 - Parts 17 and 20) are as stringent. Therefore, this requirement will be met when they are enacted.

#### Not Complete

The Michigan SDWA (Exhibit 1, Sec. 19) requires public notice. The specific rules, to be as stringent as 40 CFR 142.16, still need to be enacted ("Status" - K). The draft rules (Exhibit 2 - Part 6) are as stringent; therefore, this requirement will be met when they are enacted. The public notice requirements for bacteriological samples (Exhibit 2, Part 20) are no less stringent, because they require the notification of the affected consumers, without unduly alarming consumers who are not affected.

#### Satisfactory

The Michigan SDWA (Exhibit 1, Sec. 22) provides for a fine of up to \$5,000 per day of violation (AG opinion - Requirement 12)

#### 13. State Record Keeping and Reporting

Section 142.10(c)
The State must establish and main tain record keeping and reporting of its activities in compliance with Section 142.14 and 142.15.

#### 14. Variances and Exemptions

Section 142.10(d) Variance and exemption requirements

#### 15. Emergency Plan

Section 142.10(e)
The State must have provision for safe drinking water under emergency conditions.

#### Satisfactory

The State has agreed to keep records and make reports to EPA ( "Status" - M). The MDPH will use MSIS to accomplish this reporting.

#### Satisfactory

The State has authority (Exhibit 1, Sec. 20; AG opinion - Requirement 14) to grant variances and exemptions in accordance with P.L. 93-523 and the EPA regulations. State rules must still be enacted, but they must be at least as stringent as the EPA regulations; therefore, this requirement is met.

#### Satisfactory

The State has an emergency plan. (Exhibit 4)

The Water Supply Branch recommends that the application continue to be reviewed by the Region and EPA Headquarters. WSB recommends a determination that Michigan has met the requirements for primary enforcement responsibility for public water system supervision under the Safe Drinking Water Act, P.L. 93-523, provided that the Proposed Administrative Rules are enacted in a form that is essentially similar to the present draft, at least as far as the rules relate to the requirements for primacy. The review process should be completed, with the assumption that the MDPH rules will become effective in the interim. If the rules have not yet become effective, after final EPA approval, then notification of the primacy determination should be delayed until the rules are enacted.

BH Lab Mich. Lab Cout. File

JUL 23 1976

Maurice S. Reizen, M.D.

Director, Michigan Department of Health
Water Laboratory

3500 North Logan Street
Lansing, Michigan 48914

Dear Dr. Reizen:

We wish to thank you for your staff's cooperation and assistance provided to Dr. H. D. Hash, Mr. D. Payne and Mr. F. D. Haddox of the United States Environmental Protection Agency (USEPA) during the microbiological laboratory survey conducted April 12-13, 1976.

Enclosed are a copy of the "Survey Report of the Michigan Department of Public Health, Water Laboratory" and a copy of the "Data Handling and Use Report, Michigan Laboratory Evaluation." Dr. Nash concludes the equipment and procedures employed in the bacteriological analysis of water in this laboratory generally conform with certain significant deficiencies, to provisions of the Standard Methods for the Examination of Water and Wastewater and with the provisions of the Interstate Quarantine Drinking Water Standards.

Your attention is called to the items on pages I and 2 of the Survey Report which identify deficiencies which should be corrected, and pages 3, 4 and 5, which provide remarks on other aspects of the microbiological sampling and analysis program. Of particular importance are those comments on water suitability testing, broth preparation and storage, and pil determinations. The Data Report points out several areas which should be improved in the securing of samples and laboratory results follow-up by the sanitary engineering staff. With the exception of the recommendation that samples greater than 48 hours old should be rejected and water supply operators should be notified immediately of positive samples, the Data Report relates to factors beyond control of the laboratory and is provided primarily for your information.

An action plan to correct the deficiencies noted for items 3, 6, 31, 32, 33 and 35 is requested. This action plan should be submitted within 30 days of receipt of this letter. The Michigan Department of Public Health Water Laboratory is certified "Approved" contingent upon receipt of the above requested action plan and resolution of the above deficiencies as provided in the accepted action plan.

Dr. Theodore Williams, Chief, Sanitary Bacteriology and Chemistry Section, is certified as the State Survey Officer for Water Bacteriological Reports. Dr. Su-chan Hsu, Bacteriologist and Rosalyn Bengel, Laboratory Technician are approved for application of the total coliform membrane filter test to the bacteriological examination of drinking water.

We note that the staff provided is marginal with regard to the workload, but wish to commend you for the highly qualified staff you are maintaining. We look forward to continued cooperation with your office.

Sincerely yours,

Henry L. Longest II, P.E. Director, Water Division

Enclosures

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Copies sent to the following with enclosures:
Harry D. Nash, Cincinnati, Ohio
Roger Lee, Washington, D. C.
Theodore Williams, Lansing, Michigan
Dave Payne, Chicago, Ill (CRL)
John Vogt, Lansing, Michigan

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Dr. Theolore Williams, Chief Sanitary Bactoriology and Chemistry Section Bureau of Disease Control and Laboratories 3500 North Logan Street Lansing, Michigan 48914

Dear Dr. Williams:

As you know the National Interim Primary Drinking Water Regulations (NIPUNR), including requirements for sampling frequency and analytical methods, became effective June 24, 1977. Section 141.28 of KIPUNR requires that chemical, radiochemical, and microbiological determinations may only be considered if they are analyzed in an approved laboratory.

Although guidance on the Interim Certification of Water Supply Laboratories Program has not been finalized, our directions do provide for an approval of laboratories on an interim basis. The State has identified the Samitary Bacteriology and Chemistry Section, Bureau of Disease Control and Laboratories as capable of performing the attached chemical and microbological analyses in an acceptable manner.

At the time the State of Michigan is determined to have primary enforcement responsibility for public water systems covered by the Safe Drinking Water Act this approval shall satisfy Section 142.10(b)(4) of the regulations, assurance of the availability and capability of laboratory facilities. Upon adoption of the Interim Cortification of Water Supply Laboratory Quidelines and Programs this approval will be reviewed by the U.S. Environmental Protection Agency. The review shall include a site visit and inspection to assure that the guidelines are being set. This review shall result in certification and/or withdrawal of the approval granted by this letter for the attached list of analyses. In the interim, should compliance monitoring by the Region V USIPA find your laboratory procedures to be in error, this interim approval may be rescinded in whole or in part.

Should you have any questions regarding this program please contact Mr. David Payne, Quality Assurance Office, 1819 West Pershing Road, Chicago, Illinois 60609, (312-353-8370).

Sincerely yours.

George R. Alexander, Jr. Regional Administrator

CONCURRENCES									
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### MICHICAN DIPARIMENT OF PUBLIC IMALTH

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Barium

Cadaiun

Chromium

Lead

Hercury

Selenium

Silver

Chlorinated Hydrocarbons Endrin, Lindane, Toxaphene, Methoxychlor

Chlorophenoxys 2,4-D, 2, 4, 5-TP

Turbidity

Nitrates

Total Coliform - Multiple Tube Fermentation Technique

Total Coliform - Membrane Filter Method

Fluoride

Mr. Fonald Van Farowe, Chief Radiological Lealth Livision Bureau of Environmental and Occupational Health 3500 North Logan Street Lansing, Michigan 48914

Dear Mr. Van Farowe:

As you know the National Interim Primary Brinking Water Regulations (NIPDER), including requirements for sampling frequency and analytical methods, became effective June 24, 1977. Section 141.28 of MIPDER requires that chemical, radiochemical, and microbiological determinations may only be considered if they are analyzed in an approved laboratory.

Although guidance on the Interim Certification of Water Supply Laboratories Program has not been finalized, our directions do provide for an approval of laboratories on an interim basis. The State has identified the Radiological Health Division Laboratory, Bureau of Environmental and Occupational Health as capable of performing the attached radiochemical analyses in an acceptable manner.

At the time the State of Michigan is determined to have primary enforcement responsibility for public water systems covered by the Safe Drinking Water Act this approval shall satisfy Section 142.10(b)(4) of the regulations, assurance of the availability and capability of laboratory facilities. Upon adoption of the Interim Certification of Water Supply Laboratory Guidelines and Programs this approval will be reviewed by the U.S. Environmental Protection Agency. The review shall include a site visit and inspection to assure that the guidelines are being met. This review shall result in certification and/or withdrawal of the approval granted by this letter for the attached list of analyses. In the interim, should compliance monitoring by the Region V USLPA find your laboratory procedures to be in error, this interim approval may be rescanded in whole or in part.

Should you have any questions regarding this program please contact Mr. David Payne, Quality Assurance Office, 1819 West Pershing Road, Chicago, Illinois 60609, (312-353-8370).

Sincerely yours,

George R. Alexander, Jr. Regional Administrator

CONCURRENCES									
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### MICHGAN DEPARTMENT OF PUBLIC HEALTH

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